GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE

# UNREPEALED GENERAL ACTS

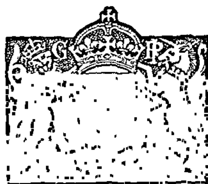
OF

THE GOVERNOR GENERAL IN COUNCIL: WITH CHRONOLOGICAL TABLE OF ALL UNREPEALED ACTS, NOTES AND AN INDEX.

## From 1887 to 1897, both inclusive.

VOL. III.

FIFTH EDITION.



CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1929

*Price Rs* 2 4 *or* 4*s*

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# PREFACE.

THIS, the third volume of the fifth edition of the General Acts, has been compiled on the same lines as the two preceding volumes

The Acts included in this volume are printed as modified up to the 31st December 1927

A. L BANERJEE,
*Assistant Secretary,*
*Legislative Department,*
*Government of India.*

SIMLA;
*The 25th October, 1928.*

# LIST OF ABBREVIATIONS USED.

| | |
|---|---|
| Aj Code | For Ajmere Code |
| Bal Code | Baluchistan Code |
| Ben Code | Bengal Code |
| Bom Code | Bombay Code |
| Bur Code | Burma Code |
| C P Code | Central Provinces Code |
| Mad Code | Madras Code |
| P and N W F Code | Punjab and North West Frontier Code |
| U P Code | United Provinces Code |
| Coll Stat | *Collection of Statutes relating to India* |
| Gen R and O | General Statutory Rules and Orders |
| Ben R and O | Bengal List of Local Statutory Rules and Orders |
| Bom R and O | Bombay List of Local Rules and Orders |
| C P R and O | Central Provinces List of Local Rules and Orders |
| Mad R and O | Madras List of Local Rules and Orders |
| Coorg R and O | Coorg List of Local Rules and Orders |
| Punj R and O | Punjab List of Local Rules and Orders. |
| U P R and O | United Provinces List of Local Rules and Orders |
| Bur R M | Burma Rules Manual |

## CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1887—1897.

(The figures in column 5 refer to the pages of this Volume)

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No | Short title | How repealed or otherwise affected by legislation | Where published |
| 1887 | II | The Sea Customs Act (1878) Amendment Act, 1887. | Short title given, Act 14 of 1897. | 1 |
| | | | Rep in part, Act 12 of 1891, | |
| | | | " , Act 8 of 1894; | |
| | | | " " Act 12 of 1896; | |
| | | | " " Act 10 of 1914 | |
| | III | The Indian Evidence Act (1872) Amendment Act, 1887. | Short title given Act 14 of 1897. | 3 |
| | | | Declared in force in the Sonthal Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3 | |
| | VII | The Suits Valuation Act, 1887. | Rep in part, Act 12 of 1891 | 4 |
| | | | Amended Act 38 of 1920 | |
| | | | Declared in force— | |
| | | | in British Baluchistan, Reg 2 of 1913, s 3; | |
| | | | in Upper Burma (except the Shan States) Act 13 of 1898, s 4 | |
| | IX | The Provincial Small Cause Courts Act, 1887 | Rep in part, Act 10 of 1888, | 7 |
| | | | " " Act 12 of 1891, | |
| | | | " " Act 9 of 1908, | |
| | | | " " Act 4 of 1914; | |
| | | | " " Act 10 of 1914 | |
| | | | Rep in pt. (in Agra) U P Act 2 of 1901 | |
| | | | Application barred in Rangoon, Bur Act 7 of 1920 | |

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1887 | IX—*contd.* | The Provincial Small Cause Courts Act, 1887—*contd.* | Amended, Act 6 of 1914;<br>„ Act 11 of 1915;<br>„ Act 9 of 1922;<br>„ Act 1 of 1926.<br>Declared in force—<br>in British Baluchistan, Reg. 2 of 1913, s. 3;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4;<br>in the Angul District, Reg. 3 of 1913, s. 3.<br>in the Pargana of Manpur, Reg. 2 of 1926, s. 2. | |
| | XIV | The Indian Marine Act, 1887. | S. 78 rep., Act 5 of 1898.<br>Amended, Act 17 of 1888;<br>Act 1 of 1899.<br>Rep. in part and amended, Act 10 of 1921.<br>Declared in force—<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4. | 23 |
| 1888 | II | The Petroleum (Customs-duty) Act, 1888. | Short title given, Act 14 of 1897.<br>Rep. in part, Act 8 of 1894. | 51 |
| | III | The Police Act, 1888 | S. 1 rep. in part, Act 10 of 1914.<br>S. 2 (*1*) amended, Act 12 of 1891.<br>Declared in force—<br>in British Baluchistan, Reg. 2 of 1913, s. 3;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4. | 51 |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No | Short title | How repealed or otherwise affected by legislation. | Where published. |
| 1888 | IV | The Indian Reserve Forces Act, 1888 | Declared in force in British Baluchistan, Reg 2 of 1913, s 3 | 53 |
| | VIII | The Indian Tolls Act, 1888 | Short title given, Act 14 of 1897.<br>Rep in part, Act 12 of 1891<br>Declared in force—<br>in Upper Burma (except the Shan States), Act 13 of 1898, s 4 | 55 |
| | XI | The Indian Telegraph (Presidency towns) Act 1888 | Short title given, Act 14 of 1897 | 56 |
| | XVII | The Indian Marine Act, (1887) Amendment Act, 1888 | Short title given, Act 14 of 1897. | 57 |
| 1889 | I | The Metal Tokens Act 1889 | S 7 rep, Act 5 of 1898<br>Rep in part Act 10 of 1914<br>Declared in force—<br>in Upper Burma (except the Shan States) Act 13 of 1898 s 4;<br>the Arakan Hill District, Reg 1 of 1916, s 2 | 57 |
| | II | The Measures of Length Act, 1889 | Declared in force in Upper Burma (except the Shan States) Act 13 of 1898 s 4 | 60 |
| | IV | The Indian Merchandise Marks Act, 1889 | Rep in part and amended, Act 9 of 1891.<br>Rep in pt., Act 16 of 1904.<br>Declared in force in Upper Burma (except the Shan States), Act 13 of 1898, s. 4 | 61 |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1889 | VII | The Succession Certificate Act, 1889. | Rep. with the exception of s. 13 by Act 39 of 1925. | 73 |
| | VIII | The Sea Customs Act, (1878) Amendment Act, 1889. | Short title given, Act 14 of 1897. | 75 |
| | | | Rep. in part, Act 8 of 1894. | |
| 1890 | I | The Revenue Recovery Act, 1890. | Rep. in part, Act 13 of 1898, s. 18. | 76 |
| | | | S. 1 rep. in part, Act 10 of 1914. | |
| | | | S. 3 (2) amended, Act 4 of 1914. | |
| | | | Modified in its application to the Benares Family Domains, U. P. Act 3 of 1904, s. 15. | |
| | | | Declared in force— | |
| | | | in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3; | |
| | | | in the Angul District, Reg. 3 of 1913, s. 3. | |
| | | | in Upper Burma (except the Shan States), Act 13 of 1898, s. 4; | |
| | | | in the Arakan Hill District, Reg. 1 of 1916, s. 2; | |
| | VI | The Charitable Endowments Act, 1890. | Rep. in part, Act 13 of 1898, s. 18. | 79 |
| | | | Rep. in part and amended, Act 38 of 1920. | |
| | | | Declared in force— | |
| | | | in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3; | |
| | | | in Upper Burma (except the Shan States), Act 13 of 1898, s. 4. | |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year | No | Short title | How repealed or otherwise affected by legislation | Where published. |
| 1890 | VIII | The Guardians and Wards Act, 1890 | Rep in part, Act 13 of 1898, s 18,<br>" " Act 6 of 1900 s 48,<br>" " s 53 Act 5 of 1908,<br>" " (in Central Provinces) Act 24 of 18[illegible]9<br>Amended, Act 4 of 1926<br>Declared in force—<br>in the Sonthal Parganas, Reg 3 of 1872, s 3 as am by Reg 3 of 1899, s 3,<br>in the Angul District, Reg 3 of 1913, s 3.<br>in Upper Burma (except the Shan States), Act 13 of 1898, s 4 | 85 |
| | IX | The Indian Railways Act, 1890. | Rep in part, Act 13 of 1898, s 18<br>Rep in part and amended, Act 9 of 1896<br>Act 11 of 1923<br>Supplemented, Act 4 of 1905<br>Amended, Act 18 of 1919,<br>" Act 32 of 1925;<br>" Act 10 of 1927<br>Declared in force—<br>in the Sonthâl Parganas Reg 3 of 1872, s 3 as amended by Reg 3 of 1899, s 3;<br>in Upper Burma (except the Shan States Act 13 of 1898, s 4 | 107 |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1890 | X | The Press and Registration of Books Act, (1867) Amendment Act, 1890. | Short title given, Act 14 of 1897.<br><br>Rep. in part, Act 12 of 1891.<br><br>Declared in force in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3. | 165 |
| | XI | The Prevention of Cruelty to Animals Act, 1890.* | Amended, Act 14 of 1917.<br><br>Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3;<br><br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4;<br><br>in British Baluchistan, Reg. 2 of 1913, s. 3;<br><br>in the Angul Dist. (certain portions of the Act), Reg. 3 of 1913, s. 3.<br><br>Am. (in Bombay)—<br>Bom. Act 13 of 1922.<br><br>Bom. Act 9 of 1923. | 168 |
| | XIII | The Excise (Malt Liquors) Act, 1890. | Ss. 2-5 rep., Act 12 of 1896.<br><br>Title, preamble and s. 1 rep. in part, Act 10 of 1914.<br><br>Ss. 6, 7 and 8 rep., Ben. Act 5 of 1909, s. 93, and E. B. & A. Act I of 1910, s. 2.<br><br>S. 9 declared in force in the Angul District, Reg. 3 of 1913; in Upper Burma (except the Shan States), Act 13 of 1898, s. 4. | 172 |

*S. 1 of Act 11, 1890, empowers Local Governments to direct, by notification in the Gazette, that the whole or any part of any other enactment for the prevention of cruelty to animals shall (until the Local Government, by notification, otherwise directs) cease to have effect in any local area to which any part of the Act of 1890 has been extended by notification. Such Notifications are not noted in these Tables.

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year | No. | Short title | How repealed or otherwise affected by legislation | Where published. |
| 1890 | XVI | The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890 | Short title given, Act 14 of 1897.<br>Rep in part, Act 38 of *1920*<br>Declared in force in the Sonthál Parganas Reg 3 of 1872, s 3, as am by Reg 3 of 1899, s 3 | 173 |
| 1891 | I | The Cattle trespass Act (1871) Amendment Act, 1891 | Short title given, Act 14 of 1897.<br>Rep in part Act 15 of 1910<br>" " Act 17 of 1921<br>The Act except ss 10 11 and 13, declared in force in the Sonthál Parganas Reg 3 of 1872 s 3, as amended by Reg 3 of 1899, s 3 | 173 |
| | II | The Indian Christian Marriage Act (1872) Amendment Act, 1891 | Short title given, Act 14 of 1897<br>Rep in part Act 12 of 1891<br>" " Act 38 of 1920<br>Declared in force in the Sonthál Parganas Reg 3 of 1872 s 3, as amended by Reg 3 of 1899, s 3 | 176 |
| | III | The Indian Evidence Act (1872) Amendment Act 1891 | Short title given Act 14 of 1897<br>Rep. in part, Act 5 of 1898,<br>" Act 5 of 1899, s 5,<br>" " Act 10 of 1914<br>Declared in force in the Sonthal Parganas, Reg. 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3. | 180 |
| | VII | The Indian Registration of Ships Act (1841) Amendment Act, 1891 | Short title given, Act 14 of 1897.<br>Rep in part and amended, Act 12 of 1891 | 182 |

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1891 | IX | The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891. | Short title given, Act 14 of 1897. | 185 |
| | | | Ss. 1 and 2 rep., Act 10 of 1914. | |
| | X | The Indian Criminal Law Amendment Act, 1891. | Short title given, Act 14 of 1897. | 187 |
| | | | Rep. in part, Act 5 of 1898. | |
| | | | Declared in force in the Sonthal Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3. | |
| | XII | The Amending Act, 1891. | Rep. in part, Act 9 of 1894; | 188 |
| | | | „ „ Act 12 of 1896; | |
| | | | „ „ Act 5 of 1898; | |
| | | | „ „ Act 13 of 1898, s 18; | |
| | | | „ „ Act 2 of 1899; | |
| | | | „ „ Act 8 of 1899; | |
| | | | „ „ Act 3 of 1900; | |
| | | | „ „ Act 6 of 1900, s. 48; | |
| | | | „ „ Act 1 of 1903; | |
| | | | „ „ Act 16 of 1903; | |
| | | | „ „ Act 5 of 1908; | |
| | | | „ „ Act 16 of 1908; | |
| | | | „ „ Act 15 of 1910; | |

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year | No. | Short title | How repealed or otherwise affected by legislation | Where published |
| 1891 | XII—*contd.* | The Amending Act, 1891—*contd.* | Rep in part, Act 8 of 1911; | |
| | | | " " Act 3 of 1913, | |
| | | | " " Act 7 of 1913, | |
| | | | " " Act 10 of 1914; | |
| | | | " " Act 1 of 1917, | |
| | | | " " Act 31 of 1920, | |
| | | | " " Act 49 of 1920, | |
| | | | " " Act 4 of 1922, | |
| | | | " " Act 21 of 1923, | |
| | | | " " Act 12 of 1927, | |
| | | | " " Act 16 of 1927, | |
| | | | " " Bur Act 4 of 1902, | |
| | | | " " Punj Act 2 of 1905, | |
| | | | " " Ben Act 2 of 1913 | |
| | | | " " B & O Act 1 of 1913 | |
| | | | Rep as to Act 23 of 1867 in British Baluchistan, Reg 4 of 1901 s 16 | |
| | | | Rep in part, Reg 1 of 1899, " " Reg 1 of 1900 | |
| | | | Declared in force in the Sonthál Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3 | |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1891 | XVI | The Colonial Courts of Admiralty (India) Act, 1891. | Rep. in part, Act 6 of 1900, s. 48;<br>Act 34 of 1926 (when notified).<br>Amended, Act 6 of 1900, s. 47;<br>Act 11 of 1923;<br>Act 34 of 1926 (when notified).<br>Amended (in Burma), Bur. Act 11 of 1922.<br>S. 5 and sch. rep., Act 10 of 1914. | 199 |
| | XVIII | The Bankers' Books Evidence Act, 1891. | Amended, Act 1 of 1893.<br>" Act 12 of 1900.<br>S. 1 rep. in part, Act 10 of 1914.<br>Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4;<br>in British Baluchistan, Reg. 2 of 1913, s. 3. | 201 |
| 1892 | II | The Marriages Validation Act, 1892. | Short title given, Act 14 of 1897.<br>S. 1 rep., Act 10 of 1914.<br>Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4;<br>in British Baluchistan, Reg. 2 of 1913, s. 3. | 203 |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year | No | Short title | How repealed or otherwise affected by legislation | Where published. |
| 1892 | VIII | The Lansdowne Bridge Act 1892 | S 1 rep in part, Act 10 of 1914 | 205 |
| | X | The Government Management of Private Estates Act, 1892 | Rep in part, Act 13 of 1898, s 18<br>S 1 in part and s 9 rep, Act 10 of 1914<br>Declared in force—<br>in the Sonthal Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3,<br>in Upper Burma (except the Shan States) Act 13 of 1898, s 4 | 206 |
| 1893 | I | The Bankers' Books Evidence Act 1893 | S 1 rep in part, Act 10 of 1914<br>Declared in force—<br>in the Sonthál Parganas Reg 3 of 187-, s 3, as amended by Reg 3 of 1899, s 3 | 208 |
| | IV | The Partition Act 1893 | S 1 rep in part, Act 10 of 1914.<br>Declared in force in Upper Burma (except the Shan States), Act 13 of 1898, s 4 | 209 |
| | XI | The Tributary Mahals of Orissa Act, 1893 | Preamble and s 1 rep. in pt, s 2 & sch rep, Act 1 of 1903 | 211 |
| 1894 | I | The Land Acquisition Act, 1894 | Amended, Act 17 of 1919,<br>" Act 19 of 1921,<br>" Act 38 of 1923<br>Rep in part and amended, Act 38 of 1920<br>S 2 rep in part and amended, Act 10 of 1914<br>Ss. 40 (1) (b) and 41 (5) amended, Act 9 of 1910, s 57 | 213 |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1894 | I—*contd.* | The Land Acquisition Act, 1894—*contd.* | S. 55 rep. in part, Act 4 of 1914. | |
| | | | Applied, with modifications, to acquisitions of land under Bom. Act 16 of 1925; Ben. Act 5 of 1911 (as amended by Ben. Act 3 of 1915, s. 9); U. P. Act 8 of 1919; Bur. Act 5 of 1920; Punjab Act 4 of 1922; C. P. Act 2 of 1922. | |
| | | | Declared in force— | |
| | | | in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3; | |
| | | | in Upper Burma (except the Shan States), Act 13 of 1898, s. 4; | |
| | | | in British Baluchistan, Reg. 2 of 1913, s. 3; | |
| | | | in the Angul Dist., Reg. 3 of 1913, s. 3. | |
| | III | The Indian Criminal Law Amendment Act, 1894. | Short title given, Act 14 of 1897. | 235 |
| | | | Ss. 1 to 4 rep., Act 5 of 1898. | |
| | | | Rep. in part, Act 10 of 1914. | |
| | | | Declared in force in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3. | |
| | VIII | The Indian Tariff Act, 1894. | S. 8 B inserted by Act 8 of 1902, and continued in force by Act 11 of 1904. | 237 |
| | | | Amended, Act 14 of 1899; | |
| | | | „ Act 8 of 1902; | |
| | | | „ Act 12 of 1903; | |
| | | | „ Act 10 of 1914; | |
| | | | „ Act 4 of 1916; | |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year | No | Short title | How repealed or otherwise affected by legislation | Where published. |
| 1894 | VIII—*contd* | The Indian Tariff Act 1894—*contd* | Amended Act 13 of 1916,<br>" Act 6 of 1917,<br>" Act 19 of 1919;<br>" Act 12 of 1922,<br>" Indian Finance Act, 1923;<br>" Act 9 of 1924;<br>" Indian Finance Act 1924,<br>" Act 14 of 1924,<br>" Act 13 of 1925;<br>" Act 14 of 1925,<br>" Act 25 of 1925;<br>" Act 17 of 1926;<br>" Act 3 of 1927,<br>" Act 5 of 1927,<br>" Act 20 of 1927;<br>" Act 23 of 1927,<br>" Act 24 of 1927<br>Rep in part, Act 6 of 1921<br>S 6 rep—<br>in U P, U P Act 4 of 1910,<br>in C P, C P Act 2 of 1915,<br>in Punjab, Pun, Act 1 of 1914,<br>in Bengal, Ben Act 5 of 1903<br>in Madras, Mad Act 1 of 18[illegible]8, as amended by Mad Act 1 of 1913,<br>in Burma, Bur, Act 5 of 1917, | |

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1894 | VIII—*contd.* | The Indian Tariff Act 1894—*contd.* | S. 6 rep.—<br>in Assam, E. B. & A. Act 1 of 1910,<br>S. 8B revived, Act 11 of 1904.<br>Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3. | |
| | IX | The Prisons Act, 1894. | Rep. in part, Act 13 of 1898, s. 18.<br>Amended, Act 13 of 1910 ;<br>" Act 10 of 1914 ;<br>" Act 17 of 1925.<br>" (in Punjab), Punj. Act 9 of 1926 .<br>Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3 ;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4 ;<br>in the Angul Dist., Reg. 3 of 1913, s. 3. | 270 |
| | XIII | The Amending (Army) Act, 1894. | Rep. in part, Act 1 of 1903.<br>" Act 4 of 1912 ;<br>" Act 4 of 1922. | 293 |
| 1895 | I | The Presidency Small Cause Courts Act, 1895. | S. 5 virt. amended, Act 3 of 1899, s. 4.<br>Rep. in part, Act 1 of 1903.<br>S. 3 (2) and s. 12 rep., Act 10 of 1914. | 295 |

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year | No | Short title | How repealed or otherwise affected by legislation | Where published |
| 1895 | III | The Indian Criminal Law Amendment Act, 1895 | Short title given, Act 14 of 1897 | 299 |
| | | | S 5 rep, Act 4 of 1909 | |
| | | | S 6 rep Act 5 of 1900 | |
| | | | S 7 rep Act 6 of 1898 | |
| | | | Rep in part, Act 10 of 1914 | |
| | | | Declared in force— in the Sonthál Parganas, Reg 3 of 1872 s 3, as amended by Reg 3 of 1899 s 3 | |
| | VIII | The Police Act (1861) Amendment Act, 1895 | Short title given, Act 14 of 1897 | 302 |
| | | | Rep in part (in Rangoon), Bur Act 4 of 1899, s 2 | |
| | | | Portions extended to Calcutta and Suburbs, with modifications, Ben Act 1 of 1898 | |
| | | | S 5 rep in part in N-W F Province, Reg 7 of 1901, s 3 | |
| | | | Declared in force— in the Sonthál Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3 | |
| | X | The Indian Railway Companies Act, 1895 | S 1 rep in part, Act 10 of 1914 | 308 |
| | | | Application to Tramway Companies authorised, Act 4 of 1902 | |
| | | | Declared in force in Upper Burma (except the Shan States), Act 13 of 1898, s 4 | |

UNREPEALED.

[illegible]

## UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No | Short title. | How repealed or otherwise affected by legislation | Where published. |
| 1897 | III—*contd* | The Epidemic Diseases Act, 1897—*contd.* | Declared in force—<br>in the Sonthál Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3,<br>in Upper Burma (except the Sh n States), Act 13 of 1898, s 4<br>in the Angul District, Reg 3 of 1913 s 3 | |
| | IV | The Indian Fisheries Act, 1897 | S 1 rep in part, Act 10 of 1914<br>Declared in force in British Baluchistan, Reg 2 of 1913 s 3 | 321 |
| | V | The Amending Act, 1897 | So much of s 2 and Schs 1 and 2 as relates to Act 1 of 1882 and Ben Act 1 of 1889 rep, Act 6 of 1901<br>So much of Sch 2 as relates to Ben Act 1 of 1883, rep, Ben. Act 5 of 1909, s 93, E B & A. Act 1 of 1910, s 2<br>Rep in part Act 1 of 1903,<br>" " Act 10 of 1914,<br>" " Act 4 of 1922,<br>" " Act 12 of 1927. | 324 |
| | VI | The Negotiable Instruments Act Amendment Act, 1897 | S 1 rep in part, Act 10 of 1914 | 331 |
| | VIII | The Reformatory Schools Act, 1897. | S 1 rep in part, Act 10 of 1914<br>S 5 rep in part, Act 4 of 1914<br>S 30 rep, Act 3 of 1900<br>Rep (in Bengal) by Ben Act 2 of 1922<br>Am in Bombay, Bom Act 13 of 1924 | 332 |

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| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No. | Short title. | How repealed or otherwise affected by legislation. | Where published. |
| 1897 | VIII—*contd.* | The Reformatory Schools Act, 1897—*contd.* | Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4;<br>in British Baluchistan, Reg. 2 of 1913, s. 3;<br>in the Angul District, Reg. 3 of 1913, s. 3;<br>in the Arakan Hill District, Reg. 1 of 1916, s. 2. | |
| | X | The General Clauses Act, 1897. | Rep. in part and amended, Act 1 of 1903;<br>Act 10 of 1914;<br>Act 18 of 1919.<br>Amended, Act 17 of 1914;<br>„ Act 24 of 1917;<br>„ Act 31 of 1920;<br>„ Act 11 of 1923.<br>Declared in force—<br>in the Sonthál Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3.<br>in the Chittagong Hill Tracts, Reg. 1 of 1900, s. 4;<br>in Upper Burma (except the Shan States), Act 13 of 1898, s. 4;<br>in British Baluchistan, Reg. 2 of 1913, s. 3;<br>in the Angul District, Reg. 3 of 1913, s. 3; | 343 |

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| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Year. | No | Short title | How repealed or otherwise affected by legislation. | Where published. |
| 1897 | X—*contd.* | The General Clauses Act, 1897—*contd.* | Declared in force—<br>in the Arakan Hill District, Reg 1 of 1916, s 2,<br>in the Pargana of Manpur, Reg. 2 of 1926, s. 2 | |
| | XIV | The Indian Short Titles Act, 1897 | Sch rep in part—<br>Act 6 of 1898,<br>Act 8 of 1899,<br>Act 13 of 1899,<br>Act 2 of 1900,<br>Act 8 of 1911,<br>Act 10 of 1914;<br>Act 1 of 1917,<br>Act 7 of 1918;<br>Act 4 of 1922;<br>Act 21 of 1923,<br>Act 3 of 1925;<br>Act 7 of 1926;<br>Act 12 of 1927.<br>Sch. rep as to Act 3 of 1894 (so far as it relates to Act 10 of 1882)—<br>Act 5 of 1898<br>S 1 rep in part, Sch rep in part and amended, Act 10 of 1914.<br>Declared in force—<br>in Upper Burma (except the Shan States), Act 13 of 1898, s 4;<br>in British Baluchistan, Reg 2 of 1913, s. 3,<br>in the Angul District, Reg. 3 of 1913, s 3,<br>in the Arakan Hill District, Reg 1 of 1916, s. 2. | 360 |

THE

# UNREPEALED GENERAL ACTS

OF

# THE GOVERNOR GENERAL IN COUNCIL,

# 1887-1897.

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## ACT No II of 1887 [1]

[*14th January, 1887.*]

## An Act to amend the Sea Customs Act, 1878, [2]* * * *

Whereas it is expedient to amend the Sea Customs Act, 1878, [2]* * *; It is hereby enacted as follows —

[3]* * * *

**1.** (*1*) In clause (*b*) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word " unless " the Amendment of section 144.

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[1] Short title, " The Sea Customs Act (1878) Amendment Act, 1887," *see* the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, *see* Gazette of India, 1887, Extraordinary, dated 10th January, 1887, p 1, and for Proceedings in Council, *see ibid*, Pt VI, pp 4 and 10

This Act, so far as it amends the Sea Customs Act, 1878 (8 of 1878), is in force in—

(*1*) Upper Burma (except *the Shan States*) as being part of the original Act declared in force there by the Burma Laws Act, 1898 (13 of 1898), *see* s 4 and the

Act declared in force there by
& O Code, Vol I
lian Tariff Act, 1882 " in the
his Act as relates to the Excise
of 1896) and the Tariff Act,
94 (8 of 1894)
epealed by the Repealing and

word "either" and after the word "destination" the following, namely:—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port."

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid," namely:—

"so paid or the spirit so delivered."

Amendment of section 146.

2. In section 146 of the same Act, for the word "shall," in each of the two places where that word occurs, the word "may" shall be substituted.

Amendment of section 148.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the [1]Indian Tariff Act, 1882". XI

(2) To the same section of the same Act the following shall be added, namely:—

"Provided that the Local Government may authorize the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise duty thereon is to be paid on the removal of the spirit from a warehouse so appointed."

Amendment of section 151.

4. (1) To section 151 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the [1]Indian Tariff Act, 1882". XI

(2) After the same section of the same Act the following shall be added, namely:—

"Provided that the Local Government may authorize the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed."

**5. & 6.** [*Amending Excise Act, 1881.*] *Rep. by the Excise Act, 1896 (XII of 1896).*

**7.** [*Repeal of portion of preamble, Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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[1] *See* now the Tariff Act, 1894 (8 of 1894).

**8.** [*Addition to s 7, Act XI of 1882* ] *Rep. by the Tariff Act, 1894 (VIII of 1894).*

**9.** [*Amendment of second schedule, Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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## ACT No. III OF 1887.[1]

[*14th January, 1887.*]

## An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

**1.** The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely — New section substituted for section 125 of the Evidence Act.

"125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue Information as to commission of offences

*Explanation* —' Revenue-officer ' in this section means any officer employed in or about the business of any branch of the public revenue."

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[1] Short title, "The Indian Evidence Act (1872) Amendment Act, 1887," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, *see* Gazette of India, 1886, Pt V, p. 793, for Report of the Select Committee, *see ibid*, 1887, Pt. IV, p. 7; and for Proceedings in Council, *see ibid*, 1886, Supplement, pp 1132 and 1155, and *ibid*, 1887, Pt VI, p. 11.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, 1 of 1872, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur Code

Act 3 of 1887 had been previously extended there under s 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Burma Gazette, 1888, Pt I, p. 362, and Gazette of India, 1888, Pt. I, p. 371

It has been declared in force in the Sonthál Parganas, under s 3 of the Sonthál Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B & O Code, Vol I.

As being part of Act 1 of 1872, it is in force in British Baluchistan by the British Baluchis [illegible] 1913), s 3, Bal. Code; in the Angul District b [illegible] (3 of 1913), s. 3; B. & O. Code, in the Kachin [illegible] by the Kachin Hill District Regulation, 1895 [illegible] regards Hill-tribes, by the Chin Hills Regulation [illegible] the Chittagong Hill-tracts by the Chittagong Hill- [illegible]), Ben Code; and in the Hill District of Arak [illegible] ws Regulation, 1916 (I of 1916), s 2, Bur. Code, Vol. I

ACT No. VII OF 1887.[1]

[*11th February, 1887.*]

## An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

Title.

**1.** This Act may be called the Suits Valuation Act, 1887.

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### PART I.

#### SUITS RELATING TO LAND.

Extent and commencement of Part I.

**2.** This Part shall extend to such local areas, and come into force therein on such dates, as the Governor General in Council, by notification in the Gazette of India, directs.[2]

Power for Local Government to make rules determining value of land for jurisdictional purposes.

**3.** (*1*) The Local Government may, [3][subject to the control] of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (*d*). VII o

(*2*) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area.

Valuation of relief in certain suits relating to land not to exceed the value of the land.

**4.** Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1886, Pt. V, p. 791; for Report of the Select Committee, *see ibid*, 1887, Pt. IV, p. 18, and for Proceedings in Council, *see ibid*, 1886, Supplement, pp. 1131 and 1155, and *ibid*, 1887, Pt. VI, pp. 16 and 21.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), *see* s. 4 and the First Schedule, Bur. Code.

It had previously been extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Burma Gazette, 1888, Pt. I, p. 362, and Gazette of India, 1888, Pt. I, p. 371.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), Bal. Code.

[2] Part I of the Act has, under s. 2, been declared to extend to the Punjab, and to come into force therein on the 1st day of March, 1889, *see* Gazette of India, 1889, Pt. I, p. 107.

[3] These words were substituted for the words "with the previous sanction" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

5. *(1)* The Local Government shall, before making rules under section 3, consult the High Court with respect thereto

Making and enforcement of rules

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette

6 On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the [1]Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories

of 1873

Repeal of section 14 of the Madras Civil Courts Act 1873

## PART II

### OTHER SUITS

7 This Part extends to the whole of British India and shall come into force on the first day of July 1887

Extent and commencement of Part II

8 Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause *(d)*, court fees are payable *ad valorem* under the Court-fees Act 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same

of 1870

Court fee value and jurisdictional value to be the same in certain suits.

9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause *(d)*, is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject matter were of such value as the High Court thinks fit to specify in this behalf [2]

1 of 1870

Determination of value of certain suits by High Court

10. [*Repeal of s 32, Punjab Courts Act, 1884 (XVIII of 1884)* ] *Rep by the Repealing and Amending Act, 1891 (XII of 1891)*

## PART III

### SUPPLEMENTAL PROVISIONS

11 *(1)* Notwithstanding anything in section 578 of the [3]Code of Civil Procedure, an objection that by reason of the over-valuation or under-

V of 1882

Procedure where objection is taken

[1] Mad Code

[2] For rules as to valuation of certain classes of suits under this section, *see* different local Rules and Orders

[3] *See* now s 99 of the Code of Civil Procedure, 1908 (Act 5 of 1908)

(*Part III.—Supplemental Provisions.*)

on appeal or *revision that* a suit or appeal was not properly valued for jurisdictional purposes.

valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(*a*) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(*b*) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(*2*) If the objection was taken in the manner mentioned in clause (*a*) of sub-section (*1*), but the appellate Court is not satisfied as to both the matters mentioned in clause (*b*) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of the first instance or lower appellate Court.

(*3*) If the objection was taken in that matter and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(*4*) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under [1]section 622 of the Code of Civil Procedure x or other enactment for the time being in force.

(*5*) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

Proceedings pending at commencement of Part I or Part II.

**12.** Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

(*a*) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or

(*b*) with respect to any appeal arising out of any such suit.

[1] *See* now s. 115 of the Code of Civil Procedure, 1908 (*Act 5 of 1908*).

# THE PROVINCIAL SMALL CAUSE COURTS ACT. 1887.

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THE FIRST SCHEDULE.—[*Repealed.*]

THE SECOND SCHEDULE.—SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

ACT No IX OF 1887.[1]

[*24th February, 1887.*]

## An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows —

### CHAPTER I.

#### PRELIMINARY.

**1.** (*1*) This Act may be called the Provincial Small Cause Courts Act, 1887 **Title, extent and commencement**

(*2*) It extends to the whole of [2]British India, and

(*3*) It shall come into force on the first day of July, 1887.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1886, Pt V, p 8; for Report of the Select Committee *see ibid*, 1887, Pt IV, p 33 and for Proceedings in Council, *see ibid*, 1886, Supplement, pp 8 and 9, and *ibid*, 1887, Pt VI, p 25

Act 9 of 1887 has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913) s 3, Bal Code, in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3, in the Pargana of Manpur by Regulation 2 of 1926, s 2

It has been declared, under s 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Districts of Hazaribagh Lohardaga and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singbhum, *see* Gazette of India, 1887, Pt I, p 582 The District of Lohardaga (now called the Ranchi District *see* Calcutta Gazette, 1889, Pt I, p 44) included at this time the District of Palamau, which was separated in 1894

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), *see* s 4 and the First Schedule, Bur Code

It had previously been extended, under s 5 of Act 14 of 1874,—

(*a*) to the Town of Mandalay, *see* Gazette of India, 1888, Pt I, p 88, and

(*b*) to the whole of Upper Burma (except the Shan States), *see* Gazette of India, 1897, Pt I, p 999

For power to confer upon a Subordinate Judge or Munsif in Bengal, the Province of Agra and Assam the jurisdiction of a Court of Small Causes under this Act, *see* the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887), s 25

Ss 15, 32, 37, 38, 39 and 40 of the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887) apply to Courts of Small Causes constituted under this Act, *see* Act 12 of 1887, s 40

The powers of a Court of Small Causes under this Act have been conferred upon the Courts of a Sub divisional Officers of Angul and of the Khondmals by section 14 of the Angul Laws Regulation, 1913 ,3 of 1913), B & O Code, Vol I

[2] As to definition of "British India," *see* Interpretation Act (52 and 53 Vict, c 63), s 18 cl 4 Gazette of India, 1889, Pt I, p 515, and the General Clauses Act, 1897 (10 of 1897), s 3 (7)

**2.** (*1*) [1]* * * *

Construction.

(*2*) [1]* All Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under [2]Act No. XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(*3*) Any enactment or document referring to [2]Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Savings.

**3.** Nothing in this Act shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of village-munsifs or village-pancháyats, under the provisions of the Madras Code, or of village-munsifs under the [3]Dekkan Agriculturists' Relief Act, 1879; or XVII 1879.

(*c*) any local law or any special law other than the Code of Civil Procedure.

Definition.

**4.** In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

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## CHAPTER II.

### CONSTITUTION OF COURTS OF SMALL CAUSES.

Establishment of Court of Small Causes.

**5.** (*1*) The Local Government [4]* * * * may, by order in writing, establish a Court of Small Causes at any place within the territories

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[1] Sub-section (*1*) and the word "But" at the beginning of sub-section (*2*) were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

[2] Act 11 of 1865 was repealed by s. 2 (*1*) of this Act.

[3] Bom. Code.

[4] The words "with the previous sanction of the Governor General in Council" were omitted by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency town

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint [1]

Judge

**6** (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing appoint a Judge of the Court [2]

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts as the Local Government directs

Appointment of times of sitting in certain circumstances

**7** (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court fix the times at which he will sit in each of the Courts of which he is Judge

(2) Notice of the times shall be published in such manner as the High Court from time to time directs

Additional Judges

**8** (1) The Local Government [3]* * * * may, by order in writing, appoint [4][Additional Judges] of a Court of Small Causes or of two or more such Courts

(2) [5][An Additional] Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge

(3) The Judge may withdraw from [5][an Additional] Judge any business pending before him

(4) When the Judge is absent, the [6][senior] Additional Judge may discharge all or any of the functions of the Judge

Suspension and removal of Judges.

**9** A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government

Power to require two Judges to sit as a bench.

**10** The Local Government, after consultation with the High Court may by order in writing direct that two Judges of Courts of Small Causes or a Judge and an Additional Judge of a Court of Small Causes shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order

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[1] For notifications issued under cl (2) of s 5 for Courts, *see* different local Rules and Orders

[2] For instance of a notification issued under this section *see* Bur R M

[3] The words with the previous sanction of the Governor General in Council" ... f the Decentralization Act 1914 (4 of 1914)

... for the words an Additional Judge by the ... (11 of 1915)

... or the words ' the Additional ' by *ibid*

(*Chapter II.—Constitution of Courts of Small Causes.*)

Decision in case heard by a bench.

**11.** (*1*) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of [1]Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(*2*) If they differ on any matter other than a matter specified in sub-section (*1*), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(*3*) For the purposes of sub-section (*2*), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

Registrar.

**12.** (*1*) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.[2]

(*2*) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(*3*) The Local Government may, by order in writing, confer upon a Registrar within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(*4*) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(*5*) A Registrar may be suspended or removed from office by the Local Government.

Other ministerial officers.

**13.** Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

Duties of ministerial officers.

**14.** (*1*) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any

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[1] *See* now ss. 113 and 115 and the first Schedule, Order XXLVI of the Code of Civil Procedure, 1908 (5 of 1908).

[2] For instance of a notification issued under this section, *see* Bom. R. & O., Vol. I.

of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers[1] of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

## CHAPTER III

### JURISDICTION OF COURTS OF SMALL CAUSES

Cognizance of suits by Courts of Small Causes.

**15.** (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.[2]

Exclusive jurisdiction of Courts of Small Causes.

**16.** Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

## CHAPTER IV

### PRACTICE AND PROCEDURE

Application of the Code of Civil Procedure.

**17.** (1) [3][The procedure prescribed in the Code of Civil Procedure, 1908, shall, save in so far as is otherwise provided by that Code or by this Act,] be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits.

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[1] For ... O., Vol. I
[2] For ... and Orders
[3] Thes ... achment of Immoveable Property) Act, 1926 (I of 1926)

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(*2*) Where a person has become liable as surety under the proviso to sub-section (*1*), the security may be realized in manner provided by section [1][145] of the Code of Civil Procedure, [2][1908].

Trial of suits by Registrar.

**18.** (*1*) Suits cognizable by the Registrar under section 12, sub-sections (*3*) and (*4*), shall be tried by him and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(*2*) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

Admission, return and rejection of plaints by Registrar.

**19.** (*1*) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(*2*) The Judge may, *of his own motion or on the application of a party,* return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

Passing of decrees by Registrar on confession.

**20.** (*1*) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(*2*) Where a decree has been passed by the Registrar under sub-section (*1*), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

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[1] These figures were substituted by the Small Cause Courts (Attachment of Immoveable Property) Act, 1926 (1 of 1926).

[2] These figures were added by *ibid*.

**21.** (*1*) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and-orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act

Execution of decrees by Registrar

(*2*) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub section (*1*), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order

(*3*) The period of fifteen days mentioned in sub section (*2*) shall be computed in accordance with the provisions of the [1]Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment

**22** When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof

Adjournment of cases by chief ministerial officer

**23** (*1*) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title

Return of plaints in suits involving questions of title

(*2*) When a Court returns a plaint under sub-section (*1*), it shall comply with the provisions of the second paragraph of [2]section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the [1] Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction

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[1] *See now* the Indian Limitation Act 1908 (9 of 1908)
[2] *See* now the First Schedule, Order VII, rule 10 of the Code of Civil Procedure, 1908 (Act 5 of 1908)

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(*2*) Where a person has become liable as surety under the proviso to sub-section (*1*), the security may be realized in manner provided by section [1][145] of the Code of Civil Procedure, [2][1908].

Trial of suits by Registrar.

**18.** (*1*) Suits cognizable by the Registrar under section 12, sub-sections (*3*) and (*4*), shall be tried by him and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(*2*) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

Admission, return and rejection of plaints by Registrar.

**19.** (*1*) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(*2*) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

Passing of decrees by Registrar on confession.

**20.** (*1*) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(*2*) Where a decree has been passed by the Registrar under sub-section (*1*), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

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[1] These figures were substituted by the Small Cause Courts (Attachment of Immoveable Property) Act, 1926 (1 of 1926).
[2] These figures were added by *ibid*.

**21.** (*1*) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act. Execution of decrees by Registrar.

(*2*) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (*1*), or the Additional Judge in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(*3*) The period of fifteen days mentioned in sub-section (*2*) shall be computed in accordance with the provisions of the [1]Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

**22.** When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof. Adjournment of cases by chief ministerial officer.

**23.** (*1*) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title. Return of plaints in suits involving questions of title.

(*2*) When a Court returns a plaint under sub-section (*1*), it shall comply with the provisions of the second paragraph of [2]section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the [1] Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

[1] *See* now the Indian Limitation Act, 1908 (9 of 1908).
[2] *See* now the First Schedule, Order VII, rule 10 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

Appeal from certain orders of Courts of Small Causes

**24.** Where an order specified in [1][clause (*ff*) or clause (*h*) of sub-section (*1*) of section 104 of the Code of Civil Procedure, 1908,] is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court [2][on any ground on which an appeal from such order would lie under that section].

Revision of decrees and orders of Courts of Small Causes.

**25.** The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

**26.** [*Amendment of the second schedule to the Code of Civil Procedure.*] *Rep. by the Presidency Small Cause Courts Law Amendment Act, 1888 (X of 1888), s. 4.*

Finality of decrees and orders.

**27.** Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

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## CHAPTER V.

### SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.

**28.** (*1*) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

(*a*) keep such registers, books and accounts as the High Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(*2*) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

**29.** A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

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[1] These words were substituted for the words "section 588, clause (*29*), of the Code of Civil Procedure" by s. 5 of the Civil Procedure (Amendment) Act, 1922 (9 of 1922).

[2] These words were added by *ibid.*

**30.** The Local Government may, by order in writing, [1]abolish a Court of Small Causes. Abolition of Courts of Small Causes.

**31.** (*1*) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other [2]Civil Court or to be a Magistrate of any class or to hold any other public office. Saving of power to appoint Judge of Court of Small Causes to other office.

(*2*) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

**32.** (*1*) So much of Chapters III and IV as relates to— Application of Act to Courts invested with jurisdiction of Court of Small Causes.

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(*2*) Nothing in sub-section (*1*) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

**33.** A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the [3]Code of Civil Procedure, be deemed to be different courts. Application of Act and Code to Court so invested as to two Courts.

**34.** Notwithstanding anything in the last two foregoing sections,— Modification of Code as so applied.

(*a*) when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

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[1] For instance of a notification abolishing a Court of Small Causes (Broach), *see* Bombay Govt. Gazette, 1907, Pt. I, p. 339.

[2] For instances of notifications issued under this power *see* U. P. List of Local R. & O., Vol. I.

[3] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

*(Chapter V.—Supplemental Provisions. The First and Second Schedules.)*

(*b*) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,

the documents mentioned in [1]section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent. XI

Continuance of proceedings of abolished Courts.

**35.** (*1*) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(*2*) Nothing in this section applies to cases for which special provision is made in the [2]Code of Civil Procedure as extended to Courts of Small Causes or in any other enactment for the time being in force. XI

**36.** [*Amendment of Indian Limitation Act.*] *Rep. Act IX of 1908.*

Publication of certain orders.

**37.** All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

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## THE FIRST SCHEDULE.

[Enactments Repealed.]

*Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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## THE SECOND SCHEDULE.

Suits excepted from the cognizance of a Court of Small Causes.

*(See section 15.)*

(1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the

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[1] *See* now the First Schedule, Order XXI, rule 6, of the Code of Civil Procedure, 1908 (Act 5 of 1908).

[2] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

Governor of Madras [1][Bombay or Fort William in Bengal], in his official capacity or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government,

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity or by a Court of Wards or by an officer of a Court of Wards in the execution of his office,

(4) a suit for the possession of immoveable property or for the recovery of an interest in such property,

(5) a suit for the partition of immoveable property,

(6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage,

(7) a suit for the assessment enhancement, abatement or apportionment of the rent of immoveable property

(8) a suit for the recovery of rent other than house rent unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto

(9) a suit concerning the liability of land to be assessed to land revenue

(10) a suit to restrain waste

(11) a suit for the determination or enforcement of any other right to or interest in immoveable property,

(12) a suit for the possession of an hereditary office or of an interest in such an office including a suit to establish an exclusive periodically recurring right to discharge the functions of an office,

(13) a suit to enforce payment of the allowance or fees respectively called *málikána* and *hakk* or of cesses of other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution,

[1] These words were substituted for the words "or Bombay" by Sch I of the Repealing and Amending Act 1914 (10 of 1914)

(14) a suit to recover from a person to whom compensation has been paid under the [1]Land Acquisition Act, 1870, the whole or any part of the compensation; X of 1870.

(15) a suit for the specific performance or rescission of a contract;

(16) a suit for the rectification or cancellation of an instrument;

(17) a suit to obtain an injunction;

(18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;

(19) a suit for a declaratory decree, not being a suit instituted under [2]section 283 or section 332 of the Code of Civil Procedure; XIV of 1882.

(20) a suit instituted under section [2]283 or section 332 of the Code of Civil Procedure;

(21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian;

(22) a suit for property which the plaintiff has conveyed while insane;

(23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;

(24) a suit to contest an award;

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India; XIV of 1882.

(26) a suit to compel a refund of assets improperly distributed under section [3]295 of the Code of Civil Procedure;

(27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets; X of 1865. V of 1881.

(28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;

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[1] *See* now the Land Acquisition Act, 1894 (1 of 1894).

[2] *See* now the First Schedule, Order XXI, rules 63 and 100 respectively of the Code of Civil Procedure, 1908 (Act 5 of 1908).

[3] *See* now s. 73, *ibid.*

(29) a suit—

(*a*) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution,

(*b*) for an account of partnership transactions, or

(*c*) for a balance of partnership account, unless the balance has been struck by the parties or their agents,

(30) a suit for an account of property and for its due administration under decree

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied to recover surplus collections received by the mortgagee and a suit for the profits on immoveable property belonging to the plaintiff which have been wrongfully received by the defendant,

(32) a suit for a general average loss or for salvage,

(33) a suit for compensation in respect of collision between ships,

(34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy,

(35) a suit for compensation—

(*a*) for loss occasioned by the death of a person caused by actionable wrong,

(*b*) for wrongful arrest, restraint or confinement,

(*c*) for malicious prosecution,

(*d*) for libel,

(*e*) for slander,

(*f*) for adultery or seduction,

(*g*) for breach of contract of betrothal or promise of marriage,

(*h*) for inducing a person to break a contract made with the plaintiff,

(*i*) for obstruction of an easement or diversion of a water-course,

[1][(*ii*) for an act which is, or, save for the provisions of Chapter
860 IV of the Indian Penal Code, would be, an offence punishable under Chapter XVII of the said Code,]

[2][(*j*) for illegal, improper or excessive distress attachment or search, or for trespass committed in, or damage caused by, the illegal or improper execution of any distress, search or legal process,]

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[1] This item was inserted by s 2 (1) of the Provincial Small Cause Courts (Amendment) Act, 1914 (6 of 1914)

[2] This item was substituted by s 2 (2), *ibid*.

(*k*) for improper arrest under [1]Chapter XXXIV of the Code of Civil Procedure or in respect of the issue of an injunction wrongfully obtained under [1]Chapter XXXV of that Code; or XIV of 1882.

(*l*) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;

(36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;

(37) a suit for the restitution of conjugal rights, [2]* * * * for the custody of a minor, or for a divorce;

(38) a suit relating to maintenance;

(39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;

(40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family in respect of a payment made by him on account of the property or family;

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(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;

[3][(43A) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code, would be, an offence punishable under Chapter XVII of the said Code;] XLV of 1860.

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908), First Schedule, Orders XXXVIII and XXXIX respectively and s. 95.

[2] The words "for the recovery of a wife" were repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

[3] This article was added by s. 3 of the Provincial Small Cause Courts (Amendment) Act, 1914 (6 of 1914).

# THE INDIAN MARINE ACT, 1887.

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## ACT No. XIV OF 1887[1].

[*30th June 1887.*]

### An Act for the better administration of Her Majesty's Indian Marine Service

47 & 48 Vict., c. 38 — 24 & 25 Vict., c. 67

WHEREAS by the [2]Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor General of India in Council shall have power, subject to the provisions contained in the [3]Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service:

Provided that—

(*a*) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits; and

(*b*) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1887, Pt V, p. 33; for Report of the Select Committee, *see ibid*, p. 57, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 12, 15 and 46

This Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

[2] Coll. Stat., Vol. I.

[3] The Act has now been repealed and replaced by the Government of India Act, 1915.

imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Title and commencement.

**1.** (*1*) This Act may be called the Indian Marine Act, 1887; and

(*2*) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.[1]

Definitions.

**2.** (*1*) In this Act, unless there is something repugnant in the subject or context,—

(*a*) "person subject to this Act" means a person who is employed or serves in, or belongs to, [2][the Royal Indian Marine Service (herein referred to as "the Indian Marine Service" or "Her Majesty's Indian Marine Service")], and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act;

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[1] The Act came into force on the 15th October, 1887, *see* Genl. R. & O., Vol. II.

[2] These words were substituted for the words "the Indian Marine Service," by s. 2 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899).

[1] (*b*) "gazetted officer" means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

| | |
|---|---|
| Commander, | Chief Engineer, |
| Lieutenant, | Engineer, or |
| Sub Lieutenant, | Assistant Engineer |

[1] (*c*) "warrant officer" means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

| | |
|---|---|
| Assistant Surgeon, | Carpenter, |
| Gunner, | Clerk, or |

Engine-driver, first class

[1](*d*) "petty officer" means a person who is employed in the Indian Marine Service as—

| | |
|---|---|
| General Mess Steward, | Carpenter's Mate, second class, |
| Chief Syrang of Lascars, first class, | Carpenter's Crew, first class, |
| Chief Syrang of Lascars, second class, | Carpenter's Crew, second class, |
| Syrang of Lascars, first class, | Plumber, |
| Syrang of Lascars, second class, | General Mess Butler, first class, |
| Sukkani, | General Mess Butler, second class, |
| Tindal of Lascars, first class, | Cook, first class, |
| Tindal of Lascars, second class, | Cook, second class, |
| Engine driver, second class, | Ship's Steward, |
| Syrang of Stokers, first class | Tide-watcher, |
| Syrang of Stokers, second class, | Kassab, first class, |
| Tindal of Stokers, first class, | Kassab, second class, |
| Tindal of Stokers, second class, | Pilot, |
| Carpenter's Mate, first class, | Chart-room Attendant, |
| | Leadsman, or |
| | Interpreter |

(*e*) "superior officer," used with reference to an officer of a rank mentioned in clause (*b*), clause (*c*) or clause (*d*) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(*f*) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor General in Council appoints instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons:

(*g*) "enemy" includes a pirate or rebel:

(*h*) "Indian Marine Court" means an Indian Marine Court held under this Act:

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[1] Present clauses (*b*), (*c*) and (*d*) were substituted for the original clauses by s 3 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899).

(*i*) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council; and

(*j*) "prescribed" means prescribed by rules made by the Governor General in Council.

[1][(*2*) The Governor General in Council may, by notification[2] in the Gazette of India, vary any of the definitions in clauses (*b*), (*c*) and (*d*) of sub-section (*1*) as occasion may appear to him to require, and the references to those clauses in the definition of the expression "superior officer" in clause (*e*) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.]

Procedure on enrolment.

**3.** (*1*) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(*a*) cause to be read and explained to him the rules of the service,

(*b*) administer to him an oath of allegiance, and

(*c*) cause him to sign a roll.

(*2*) The rules, oath and roll shall be in prescribed forms.

General power to make rules.

**4.** In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make [3]rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

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## CHAPTER II.

### OFFENCES AND PUNISHMENTS.

*Misconduct in the Presence of the Enemy.*

Misconduct of commanding officer in action.

**5.** If a commanding officer—

(*i*) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or

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[1] This sub-section was substituted by s. 1 of the Indian Marine Act (1887) Amendment Act, 1888 (17 of 1888).

[2] For notification varying the definitions of "gazetted officer," "warrant officer" and "petty officer" in clauses (*b*), (*c*) and (*d*) of sub-section (*1*), *see* Genl. R. & O., Vol. II.

[3] For rules made under s. 4 in conjunction with ss. 68 and 70, *see* Genl. R. & O., Vol. II.

(ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or

(iii) when capable of making a successful defence, surrenders his vessel to the enemy, or

(iv) in time of action improperly withdraws from the fight,

he shall,—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

6 If any officer subject to this Act— Not pursuing the enemy or not assisting a friend in view

(i) forbears to pursue the chase of any enemy beaten or flying or

(ii) does not relieve and assist a known friend in view to the utmost of his power, or

(iii) improperly forsakes his station

he shall—

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,

(*b*) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

7. If any person subject to this Act— Delaying or discouraging action or service, or deserting post or sleeping on watch

(i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or

(ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned

8 If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,— Misconduct of subordinate officers and men in action

(*a*) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,

(b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Communications with the Enemy.*

Corresponding, etc., with the enemy

9. If any person subject to this Act—

(i) treacherously holds correspondence with or gives intelligence to the enemy, or

(ii) fails to make known to the proper authorities any information which he may have received from the enemy, or

(iii) relieves the enemy with any supplies,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Improper communication with the enemy.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Neglect of Duty.*

Neglect of duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

*Mutiny.*

Mutiny accompanied by violence.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

(a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned;

(b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Mutiny not accompanied by violence.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned; and all other persons subject to

this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned. Inciting to mutiny.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned. Mutinous assembly or uttering seditious words.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned. Concealing traitorous, mutinous or seditious practice, design or words.

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. Striking or using violence to superior officer.

*Insubordination.*

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. Disobedience or using threatening language to superior officer.

*Desertion and Absence without Leave.*

19. A person subject to thsi Act who— Desertion.

(i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place, or

(ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place,

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned,

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him and all

annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor General in Council.

Inducing any person to desert

**20.** A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Breaking out of vessel.

**21.** A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Absence without leave.

**22.** A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

*Miscellaneous Offences.*

Drunkenness on board ship or on duty.

**23.** A person subject to this Act who is guilty of any drunkenness on board ship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Cruelty or misconduct by officer.

**24.** An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Suffering vessel to be lost or imperilled.

**25.** A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Unlawful taking of goods on board.

**26.** An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

**27.** A person subject to this Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned

Embezzling public stores

**28** A person subject to this Act who unlawfully sets fire to any dockyard, victualling yard, steam factory yard, arsenal, magazine, building or stores or to any ship boat or other craft or furniture thereunto belonging not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned

Arson

**29** A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

Making false documents

**30** A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease, or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned

Malingering or misconduct in hospital

**31.** A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied or shall report the case to the Director of Marine, and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned

Creating disturbance on account of complaints

**32** A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

Offences to the prejudice of good order and discipline not otherwise specified

Provided that, if such act, disorder, or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years the person guilty thereof shall not be tried under this Act as for an offence punishable under this section

**33** A person subject to this Act who does not use his utmost exertion to detect arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned

Not assisting in arresting offenders

(*Chapter II.—Offences and Punishments.*)

Contempt of Court.

**34.** A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

False evidence.

**35.** A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

(*Offences punishable by Ordinary Law.*)

Offences punishable by ordinary law.

**36.** If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India:

Provided that, except as authorised by the [1]Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy. 47 & c. 38

*Punishments.*

Schedule of punishments.

**37.** (*1*) The following punishments may be inflicted under this Act:—

(*a*) death;
(*b*) penal servitude;
(*c*) dismissal with disgrace from the Indian Marine Service;
(*d*) imprisonment;
(*e*) dismissal from the Indian Marine Service;
(*f*) loss of seniority as an officer for a specified time or otherwise;
(*g*) dismissal from the vessel to which the offender belongs;
(*h*) severe reprimand, or reprimand;
(*i*) disrating a warrant-officer or petty officer or any other person below that rank;
(*j*) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or

[1] Coll. Stat., Vol. I.

more of the above particulars, also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs

(*2*) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale

**38** The following regulations shall apply to the infliction of punishments — **Regulations as to the infliction of punishments**

(*1*) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years

(*2*) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude

(*3*) The punishment of penal servitude or of transportation or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service with or without disgrace, as the prescribed authority may direct

(*4*) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to the offender, and an incapacity to serve the Government again in any capacity

(*5*) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment

(*6*) Except as otherwise provided by this Act a sentence of imprisonment passed otherwise than under clause (*2*) of this section may extend to two years

(*7*) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof

(*8*) When a sentence of imprisonment is passed on a warrant officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person

(*9*) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment

**39** Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression " other punish **Scale of punishments.**

ment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Limitation of time for trials.

**40.** No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

## CHAPTER III.

### JURISDICTION AND POWERS.

Offences cognizable by Criminal Courts and Indian Marine Courts respectively.

**41.** Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to [1]criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table:—

| Section of this Act. | Marginal note | Courts having jurisdiction. |
|---|---|---|
| Section 5 | Misconduct of commanding officer in action . . . | Criminal Courts and Indian Marine Courts. |
| " 6 | Not pursuing the enemy or not assisting a friend in view . | |
| " 7 | Delaying or discouraging action or service or deserting post or sleeping on watch. | |
| " 8 | Misconduct of subordinate officers and men in action . . | |
| " 9 | Corresponding, etc., with the enemy . . . . . . | |
| " 10 | Improper communication with the enemy . . . . | |
| " 11 | Neglect of duty . . . . . . . . . . | Indian Marine Courts. |
| " 12 | Mutiny accompanied by violence . . . . . . | Criminal Courts and Indian Marine Courts. |
| " 13 | Mutiny not accompanied by violence . . . . | |
| " 14 | Inciting to mutiny . . . . . . . . | |
| " 15 | Mutinous assembly or uttering seditious words . . . | |
| " 16 | Concealing traitorous, mutinous or seditious practice, design or words. | |

[1] See now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

| | n of Act | Marginal note | Courts having jurisdiction. |
|---|---|---|---|
| | 17 | Striking or using violence to superior officer | Indian Marine Courts. |
| | 18 | Disobedience or using threatening language to superior officer. | |
| | 19 | Desertion | Criminal Courts and Indian Marine Courts |
| | 20 | Inducing any person to desert | |
| ,, | 21 | Breaking out of vessel | Indian Marine Courts |
| ,, | 22 | Absence without leave | |
| ,, | 23 | Drunkenness on board ship or on duty | |
| ,, | 24 | Cruelty or misconduct by officer | |
| ,, | 25 | Suffering vessel to be lost or imperilled | |
| ,, | 26 | Unlawful taking of goods on board | |
| ,, | 27 | Embezzling public stores | Criminal Courts and Indian Marine Courts. |
| ,, | 28 | Arson | |
| ,, | 29 | Making false documents | |
| ,, | 30 | Malingering or misconduct in hospital | Indian Marine Courts |
| ,, | 31 | Creating disturbance on account of complaints | |
| ,, | 32 | Offences to the prejudice of good order and discipline not otherwise specified. | |
| ,, | 33 | Not assisting in arresting offenders | Criminal Courts and Indian Marine Courts |
| ,, | 34 | Contempt of Court | |
| ,, | 35 | False evidence | |
| ,, | 36 | Offences punishable by ordinary law | Criminal Courts |

**42.** Subject as aforesaid— Power to pass sentences

(*a*) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and

(*b*) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

**43.** (*1*) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender. Jurisdiction and powers of commanding officers.

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer [illegible] pass a sentence of imprisonment for a period not exceeding three m[illegible] on an offender below the position of petty officer, and may disrat[illegible] warrant-officer or petty officer or any other person below that rank.

Place of trial.

**44.** A person subject to this Act who is accused of an offence to w[illegible] this Act applies may be tried and punished for the offence by a Crimi[illegible] Court in any place where he may happen to be in the same manner as [illegible] the offence had been committed in that place.

Jurisdiction over person ceasing to be subject to Act.

**45.** Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Case of person charged with an offence cognizable by a Criminal Court.

**46.** When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise the following rules shall apply, namely:—

(*a*) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court.

(*b*) when no requisition is made under clause (*a*), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

Case of person charged with an offence cognizable by an Indian Marine Court or commanding officer.

**47.** When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

Conflict of jurisdiction.

**48.** When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

**49** An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer Previous conviction or acquittal

**50** Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the [1]Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section Application of Act XV of 1869 to Indian Marine Courts

**51** The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or a commanding officer under this Act or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted and any sentence so modified shall, subject to the provisions of this Act be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer but so that the punishment involved in any sentence be not increased by any such modification Powers of Governor General in Council in respect of sentences

## CHAPTER IV

### INDIAN MARINE COURTS

### *Constitution of the Court*

**52** (*1*) The following authorities shall have power to convene Indian Marine Courts, namely — Power to convene Indian Marine Court

(*a*) the Governor General in Council,

(*b*) the Director of Marine,

(*c*) an officer empowered in that behalf by warrant of the Governor General in Council

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only [2][by the Governor General in Council or by the Director of Marine]

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[1] *See* now the Prisoners Act 1900 (3 of 1900) by which this has been repealed

[2] These words were substituted for the words "by or with the previous sanction of, the Governor General in Council" by s 2 of the Indian Marine (Amendment) Act 1921 (10 of 1921)

(*2*) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

**Composition of Indian Marine Court.**

**53.** [1][(*1*) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.]

[1][(*2*) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.]

[1][(*3*) Except in the case of an Indian Marine Court convened under section 52, sub-section (*2*), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander.]

(*4*) A person acting as prosecutor shall not be a member of the Court.

(*5*) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (*1*).

(*6*) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(*7*) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(*8*) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (*2*) or sub-section (*3*), as the case may be, shall take the place of the president without special appointment as such.

(*9*) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

[2][(*10*) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.]

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[1] Sub-sections (*1*), (*2*) and (*3*) were substituted for the original sub-sections by s. 4 (*1*) of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899).

[2] Sub-section (*10*) was added by s. 4 (*2*), *ibid*.

[1][(*11*) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate to every trial, who shall be, if possible, an officer of the Judge Advocate General's Department ]

[1][(*12*) The authority convening an Indian Marine Court shall also appoint a person as Provost Marshall, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority ]

*Procedure at the Trial*

**54** An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land — **Place of sitting of Indian Marine Court.**

**55** As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them, if the prisoner objects to any member, the objection shall be decided by the Court, if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub sections (*2*) (*3*), (*4*) and (*5*) — **Challenge.**

Provided that where the Court is composed as in the proviso to section 53, sub section (*1*), and no officer qualified under that section is available to take the place of the officer objected to the Court shall, after recording the objection proceed with the trial in like manner as if the objection had been disallowed

**56** (*1*) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner — **Oaths.**

(*2*) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court

**57** When no specific charge is made against any person subject to this Act for, or in respect or in consequence of the wreck, loss, destruction or capture of any vessel in the Indian Marine Service all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court, and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself — **Tr[illegible]**

[1] Sub-sections (*11*) and (*12*) were added by s 4 [illegible] of the Indian Marine (1887) Amendment Act 1899 (I of 1899)

Dissolution of Court on illness of prisoner.

**58.** (*1*) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved:

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(*2*) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the [1]Code of X Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

Re-trial of prisoner after dissolution of Court.

**59.** Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (*7*) or sub-section (*9*), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Clearing of Court.

**60.** The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Decision of Court.

**61.** Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote:

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

Summoning witnesses.

**62.** (*1*) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(*2*) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

Summary punishment of certain contempts.

**63.** When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

*Confirmation of Findings and Sentences*

**64** (*1*) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority Submission of proceedings to confirming authority

(*2*) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings

**65** A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority Confirmation of findings and sentences

**66** (*1*) The confirming authority shall ordinarily be the authority convening the Court Confirming authority

(*2*) But if the Court was convened for the trial of a gazetted officer [1] * * * or if in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council

(*3*) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto

**67** (*1*) The confirming authority may send back the finding and sentence of an Indian Marine Court or either of them for revision and, on the finding or sentence being sent back the Court may if so directed by the confirming authority receive additional evidence Powers of confirming authority

(*2*) Where the finding only is sent back for revision the Court may revise the sentence also

(*3*) The confirming authority may in confirming the sentence of an Indian Marine Court—

(*i*) reduce the punishment thereby awarded or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court,

(*b*) suspend for such time as seems expedient the execution of the sentence,

(*c*) if the finding or sentence is informally expressed vary the form thereof or if the sentence is invalid substitute a valid sentence therefor

[1] The words "with the previous sanction of the Governor General in Council" were omitted by s  of the Indian Marine (Amendment) Act 1921 (10 of 1921)

be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(*2*) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced:

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

Execution of such sentences.

**75.** (*1*) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(*2*) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(*3*) A person transferred to a prison under sub-section (*2*) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court:

Provided that—

(*a*) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged;

(*b*) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

*Savings.*

Saving of authority of ordinary Courts.

**76.** Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

Minor punishments.

**77.** Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

(*a*) to dismissal, loss of seniority, disrating, forfeiture or stoppages; or

(*b*) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

*Amendment of Acts.*

**78.** [*Amendment of Act X of 1882, section 54 (Arrest of Deserters).*] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy).

60 **79.** After section 138 of the Indian Penal Code the following section shall be inserted, namely:—

Application of foregoing sections to the Indian Marine Service.

"138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen."

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CHAPTER VI.

PROVISIONS OF CIVIL LAW.

*Exemption from Process.*

Exemption from arrest for debt.

**80.** (*1*) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them, that is to say:—

(*a*) on account of a criminal charge or conviction;

(*b*) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.

(*2*) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

Property which cannot be attached.

**81.** The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature.

*Property of Deceased Persons and Deserters.*

Disposal of property of deceased persons and deserters.

**82.** The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts:—

(*1*) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(*2*) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(*3*) In the case of a deceased person, if the property is not dealt with under clause (*2*), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(*4*) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(*5*) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(*6*) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(*7*) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

## ACT No II OF 1888 [1]

*[10th February, 1888 ]*

## An Act to provide for the levy of a Customs duty on Petroleum

WHEREAS it is expedient to provide for the levy of a [2]customs duty on petroleum, It is hereby enacted as follows —

**1.** *[Addition to Schedule II, Act XI, 1882 ] Rep by the Indian Tariff Act, 1894 (VIII of 1894), Sch I*

878 And whereas the proviso to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable, It is further enacted as follows —

**2** The rate of duty applicable to petroleum of which the bill of entry is delivered, within the meaning of section 37 of the Sea Customs Act, 878. 1878, to the Customs Collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the [3]second 82. schedule to the [3]Indian Tariff Act, 1882, as amended by this Act

**Commencement of effect of the addition to the schedule**

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## ACT No III OF 1888 [4]

*[17th February, 1888 ]*

## An Act to amend the Law relating to the Regulation of Police

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police officers to

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[1] Short title " The Petroleum (Customs-duty) Act 1888 ' *see* the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons *see* Gazette of India 1888 Pt V, p 2, for Report of the Select Committee *see ibid*, Pt IV, p 6, and for Debates in Council, *see ibid* Pt VI, pp 6 21 and 35

[2] For duty on petroleum, *see* now Art 40 Sch II, of the Indian Tariff Act, 1894 (8 of 1894)

[3] *See* now the Indian Tariff Act 1894 (8 of 1894) Sch II (40)

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1888 Pt V p 130, for Report of the Select Committee, *see ibid*, 1888, Pt IV, p 8, and for Proceedings in Council, *see ibid*, 1887, Pt VI, p 100 and *ibid*, 1888 pp 37 and 40

The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), Bal Code

It has been declared by notification under s 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Districts of Hazáribagh Lohardaga (now called the Ranchi District, *see* Calcutta Gazette, 1899, Pt I, p 41), Mánbhum and Palamau and in Pargana Dhálbhum and the Kolhán in the Singhbhum District, *see* Gazette of India, 1895 Pt I, p 130

It had been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1898) Bur Code It had been previously extended there by notification under s 5 of Act 14 of 1874, *see* Gazette of India 1892, Pt. I, p. 94

the presidency, province or place of the police-establishment of which they are members; It is hereby enacted as follows:—

Title and extent.

1. (*1*) This Act may be called the Police Act, 1888.

(*2*) It extends to the whole of British India; [1]*

[1]* * * *

Constitution of police-forces for special purposes

2. (*1*) Notwithstanding anything in [2]Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), Act V of 1861 (*an Act for the Regulation of Police*) [3][or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council], or any Act relating to the police in any presidency-town, the Governor General in Council may, by notification in the Gazette of India, create a general police-district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police-force for service therein.[4]

(*2*) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the [5] Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may [4] appoint, and the functions of the Inspector-General of Police, Deputy Inspectors-General, Assistant Inspectors-General, District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force. X of

(*3*) Subject to any orders which the Governor General in Council may make in this behalf, members of a police-force enrolled for service in a general police-district created under sub-section (*1*) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V of 1861, they have within the district.

[1] The word "and" at the end of sub-section (*2*), and sub-section (*3*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[2] Mad. Code.

[3] These words were substituted for the words "the Bombay District Police Act, 1867," by the second schedule to the Repealing and Amending Act, 1891 (12 of 1891). *See* now the Bombay District Police Act, 1890 (Bom. Act IV of 1890), Bom. Code.

[4] For notifications issued under these powers, *see* Genl. R. & O., Vol. II.

[5] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub section (2) has generally or specially empowered to act under this sub section may subject to any orders which the Governor General in Council may make in this behalf exercise in any part of the local area in which he has the powers of a police officer under sub section (3) any of the powers which an officer in charge of a police station has in that part and when so exercising any such power shall, subject as aforesaid be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency province or place included in a general police district under sub section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency province or place of which it forms part

(6) For the purposes of this section and subject to the provisions thereof Act V of 1861 shall notwithstanding anything in section 46 of that Act be deemed to take effect throughout the whole of British India

**Employment of police-officers beyond the presidency, province or place to which they belong**

3 Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor General in Council may make in this behalf, a member of the police establishment of any presidency, province or place may discharge the functions of a police officer in any part of British India beyond the limits of the presidency, province or place and shall, while so discharging such functions be deemed to be a member of the police establishment of that part and be vested with the powers functions and privileges and be subject to the liabilities of a police officer belonging to that establishment

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## ACT No IV of 1888 [1]

*[2nd March, 1888 ]*

## An Act to regulate Her Majesty's Indian Reserve Forces

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces It is hereby enacted as follows —

**Title and commencement.**

1 (1) This Act may be called the Indian Reserve Forces Act 1888, and

[1] For Statement of Objects and Reasons *see* Gazette of India 1888, Pt V, p 22 and for Proceedings in Council, *see ibid* 1888 pp 45 and 55
This Act has been declared in force in British Baluchistan by the Baluchistan Laws Regulation 1913 (2 of 1913) Bal Code

(2) It shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, [1] appoint in this behalf.

**Division of Reserve Forces into Active and Garrison Reserves.**

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

**Locality of service of Reserves.**

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

**Power to make rules for regulation of Reserve Forces.**

4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

**Liability of Reserve Forces to military law.**

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

**Punishment of certain offences by persons belonging to Reserve Forces.**

6. (1) If a person belonging to the Indian Reserve Forces—

(a) when required by or in pursuance of any rule or order under this Act to attend at any place, fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or Act 186

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

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[1] The Act came into force on the 26th May, 1888, *see* Gazette of India of same date, Pt. I, p. 239.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

**7.** Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act — **Effect of Act on persons already in the Reserves.**

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## ACT No VIII OF 1888 [1]

*[5th September, 1888.]*

## An Act to remove doubts as to the legality of the levy of certain Tolls

WHEREAS doubts have been raised as to the operation of the Acts of the Governor General in Council, No VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No XV of 1864 (*an Act to amend Act VIII of 1851*), It is hereby enacted as follows:—

**1.** Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab — **Enforcement of Acts VIII of 1851 and XV of 1864 in the Punjab**

**2.** (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St George in Council, and the — **Operation of the Act in the Punjab**

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[1] Short title "The Indian Tolls Act 1888," *see* the Indian Short Titles Act, 1897 (14 of 1897)

For .. Gazette of India, 1888, Pt V, p 43, and for VI, pp 82 and 93

This pper Burma (except the Shan States) by the ur Code

It had been previously declared in force there under s 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Burma Gazette, 1888, Pt I, p 497 and Gazette of India, 1888, Pt. I, p. 478

and certain other parts of British India.

Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of 1861 and XV of 1864 may be or have been extended[1], or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency", where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

Validation of past levy of tolls.

3. All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied.

Saving.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888.

Amendment of section 2, Act VIII, 1851.

5. In section 2 of Act VIII of 1851 [2]* * * * * the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council".

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## ACT No. XI OF 1888.[3]

[*5th October, 1888.*]

### An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows:— XIII

Addition of section to Act XIII of 1885.

1. The following section shall be added to that Act, namely:—

(*See* Vol. II.)

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[1] For notification extending the provisions of Act 8 of 1851 and of Act 15 of 1864 to Lower Burma, under s. 2 of this Act, *see* Bur. R. M.

[2] The words "the words 'and the Governor of the Presidency of Bombay in Council' are hereby repealed and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

[3] Short title, "The Indian Telegraph (Presidency-towns) Act, 1888," *see* the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 45, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 83 and 102.

ACT No XVII of 1888 [1]

[*26th October, 1888*]

## An Act to amend the Indian Marine Act, 1887

WHEREAS it is expedient to amend the Indian Marine Act, 1887, It is hereby enacted as follows —

**Amendment of section 2, Act XIV of 1887**

1 For sub section (*2*) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely —

(*Vide supra*, p 30)

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ACT No I of 1889 [2]

[*1st February, 1889.*]

## An Act for the Protection of Coinage and other purposes

WHEREAS it is expedient to prohibit the making, or the possession for issue or the issue, by private persons, of pieces of metal for use as money,

And whereas it is also expedient to amend section 28 of the Indian Penal Code,

It is hereby enacted as follows —

**Title and extent**

1 (*1*) This Act may be called the Metal Tokens Act, 1889

(*2*) It extends to the whole of British India,[3]*

[3]* * * *

**Definition**

2 In this Act " issue " means to put a piece of metal into circulation for the first time for use as money in British India, such piece having

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[1] Short title The Indian Marine Act (1887) Amendment Act 1888 " *see* the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons *see* Gazette of India, 1888, Pt V, p 103 and *for Proceedings in Council, see ibid*, Pt VI, pp 110 and 183

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act (14 of 1887) declared in force there by the Burma Laws Act, 1898 (13 of 1898), s 4, Bur Code

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt V, p 19, for Report of the Select Committee, *see ibid*, 1889, Pt IV, p 3, and for Debates in Council, *see ibid*, 1888, Pt VI pp 40 and 81, and *ibid*, 1889, Pt VI, pp 3 and 9

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898) in the Arakan Hill District by Regulation 1 of 1916, s 2, Bur Code

It had been previously extended there by notification under s 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Burma Gazette, 1893, Pt I, p 154

[3] The word "*and*" at the end of *sub-section (2)*, and *sub-section (3)* were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878. VIII

Prohibition of making by private persons of pieces of metal to be used as money.

**3.** No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

Penalty for unlawful making, issue or possession of such pieces.

**4.** (*1*) In either of the following cases, namely:—

(*a*) if any person makes in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(*b*) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,

(*i*) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both; or,

(*ii*) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(*2*) If any person is convicted of an offence under sub-section (*1*), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces, as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession custody or control.

(*3*) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

Cognizance of offences under the last foregoing section.

**5.** (*1*) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

(*2*) Notwithstanding anything in the [1]Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance X of 1

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

of by any Magistrate, except a District Magistrate or Sub Divisional Magistrate, without the previous sanction of the District Magistrate or Sub Divisional Magistrate

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money

6 If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification[1] direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub section (*3*) of section 4 and sub section (*1*) of section 5, or of either sub section, in relation to the offence of making such pieces shall notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act

7 [*Addition to section 98, Act X of 1882*] *Rep by the Code of Criminal Procedure, 1898 (Act V of 1898)*

Prohibition of receipt by local authorities and railways as money of metal which is not coin

8 (*1*) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority

(*2*) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees

Amendment of section 28 of the Indian Penal Code

9 For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely —

"*Explanation 1* —It is not essential to counterfeiting that the imitation should be exact

"*Explanation 2* —When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised"

[1] For notification issued under this power, *see* Genl. R and O

## ACT No. II of 1889.[1]

[*15th February, 1889.*]

**An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.**

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Measures of Length Act, 1889.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on such [2]day as the Governor General in Council may appoint in this behalf.

Standard yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

Measure for determining length of standard yard.

3. A copy, approved by the Governor General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may [3]prescribe, and shall be the standard for determining the length of the standard yard.

Standard foot and inch.

4. One-third part of the standard yard shall be called a standard foot, and one-thirty-sixth part of such a yard shall be called a standard inch.

Presumption in favour of accuracy of certified measures.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 41; for Report of the Select Committee, *see ibid*, 1889, Pt. IV, p. 6, and for Proceedings in Council, *see ibid*, 1888, Pt. VI, pp. 66 and 82, and *ibid*, 1889, Pt. VI, p. 20.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously extended there, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Burma Gazette, 1893, Pt. I, p. 154.

[2] The Act was brought into force on the 15th June, 1889, *see* Genl. R. and O.

[3] For notification prescribing such a place, *see* Genl. R. and O.

[1] Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved

Inspection of certified measures by the public

**6.** A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession

Certified measures to be kept by authorities required by existing enactments to keep measures of length

**7.** There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866 by the Commissioners in Calcutta under section 370 of the [2]Calcutta Municipal Consolidation Act, 1888, by the Commissioner of Police in the City of Madras under section 32 of the [3]Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the [4]City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard standard foot and standard inch as are mentioned in section 5

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ACT No IV of 1889 [5]

*[1st March 1889]*

## An Act to amend the Law relating to Fraudulent Marks on merchandise

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise, It is hereby enacted as follows —

Title extent and commencement

**1.** *(1)* This Act may be called the Indian Merchandise Marks Act, 1889

(2) It extends to the whole of British India and [6]* * * *

(3) It shall come into force on the first day of April, 1889

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[1] For officers appointed to have charge of such measures, *see* different local Rules and Orders

[2] The Act was repealed by Bengal Act 3 of 1899 which has in turn been repealed and replaced by Bengal Act 3 of 1923

[3] Mad Code

[4] Bom Code

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1883, Pt V, p 109, for Report of the Select Committee, *see ibid*, 1889, Pt V, p 27, and for Proceedings in Council, *see ibid*, 1888, Pt VI, pp 111 and 136, and *ibid*, 1889, Pt VI, p 38

[6] [illegible] Upper Burma (except the Shan States) by the [illegible] ur Code [illegible] of the last section of this Act" were rep[illegible] and Sea Customs Acts Amendment Act, 1891 (9 of 1891)

Definitions.

**2.** In this Act, unless there is something repugnant in the subject or context,—

(*1*) "trade mark" has the meaning assigned to that expression in section 478 of the [1] Indian Penal Code as amended by this Act: XLV

(*2*) "trade description" [1] means any description, statement or other indication, direct or indirect,—

(*a*) as to the number, quantity, measure, gauge or weight of any goods, or

(*b*) as to the place or country in which, or the time at which, any goods were made or produced, or

(*c*) as to the mode of manufacturing or producing any goods, or

(*d*) as to the material of which any goods are composed, or

(*e*) as to any goods being the subject of an existing patent, privilege or copyright;

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(*3*) [1] "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(*4*) "goods" means anything which is the subject of trade or manufacture: and

(*5*) "name" includes any abbreviation of a name.

*Amendment of the Indian Penal Code.*

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

**3.** For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:— XLV

"*Of Trade, Property and other marks.*

Trade mark.

[1] "478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the

[1] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (*1*)].

purposes of this Code the expression ' trade mark ' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents Designs and Trade Marks Act, 1883 are, under Order in Council, for the time being applicable

" 479 A mark used for denoting that moveable property belongs to a particular person is called a property mark Property mark

" 480 Whoever marks any goods or any case package or other receptacle containing goods or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark Using a false trade mark.

" 481 Whoever marks any moveable property or goods or any case package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong is said to use a false property mark Using a false property mark

" 482 Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both Punishment for using a false trade mark or property mark.

" 483 Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both Counterfeiting a trade mark or property mark used by another

" 484 Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine Counterfeiting a mark used by a public servant

" 485 Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise Making or possession of any instrument for

counterfeiting a trade mark or property mark.

of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Selling goods marked with a counterfeit trade mark or property mark.**

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**Making a false mark upon any receptacle containing goods.**

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

"489. Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

*Trade Descriptions.*

Provisions supplemental to the defini-

[1] **4.** (*1*) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade

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[1] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (*2*)], and Wright thereon, pp. 16 and 38.

description is applied, shall extend to the application to goods of any such numerals, words or marks or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are and to goods having such numerals, words or marks, or arrangement or combination applied thereto

tion of false trade description

[1] (2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

(*a*) not being a trade mark or part of a trade mark, and

(*b*) being identical with, or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials

(*3*) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards standard feet or standard inches is a false trade description

Application of trade descriptions

[2] 5 (*1*) A person shall be deemed to apply a trade description to goods who—

(*a*) applies it to the goods themselves or

(*b*) applies it to any covering label reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(*c*) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in with or to any covering label, reel or other thing to which a trade description has been applied, or

(*d*) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade description

(*2*) A trade description shall be deemed to be applied whether it is woven impressed or otherwise worked into or annexed or affixed to the goods or any covering, label reel or other thing

[1] *Cf* the Merchandise Marks Act 1887 [50 & 51 Vict c 28 s 3 (3)]
[2] *Cf* the Merchandise Marks Act 1887 [50 & 51 Vict c 28 s 5]

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

**Penalty for applying a false trade description.**

[1] **6.** If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

**Penalty for selling goods to which a false trade description is applied.**

[2] **7.** If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

## *Unintentional Contravention of the Law relating to Marks and Descriptions.*

**Unintentional contravention of the law relating to marks and descriptions.**

[3] **8.** Where a person is accused under section 482 of the Indian XI Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making

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[1] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 2 (*1*)]. For instructions as to prosecutions under this section for offences relating to the short reeling of yarn in Indian mills, *see* Bombay Government Gazette, 1906, Pt. I, p. 487.

[2] For instructions as to prosecutions under this section for offences relating to the short reeling of yarn in Indian mills, *see* Bombay Government Gazette, 1906, Pt. I, p. 487.

[3] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 6].

*(Unintentional Contravention of the Law relating to Marks and Descriptions. Forfeiture of Goods.)*

any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

(*a*) that in the ordinary course of business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(*b*) that he took reasonable precautions against committing the offence charged, and

(*c*) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(*d*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

*Forfeiture of Goods.*

60. [1] **9.** (*1*) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

**Forfeiture of goods.**

(*2*) When a forfeiture is directed on a conviction, and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(*3*) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees,

[1] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 2 (3) (iii)].

an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

*Amendment of the Sea Customs Act, 1878.*

Amendment of section 18, Act VIII of 1878.

[1]**10.** (*1*) For clause (*d*) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:— VIII

"(*d*) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889: XLV IV of

(*e*) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be [2] * * * * the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) [3][the country in which that place is situated is] in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and the same language and character as the name or trade mark."

(*2*) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (*1*), the following shall be added, namely:—

"(*f*) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

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[1] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 16 (*2*)].

[2] The words "or being a colourable imitation of" were repealed by the Sea Customs (Amendment) Act, 1904 (16 of 1904).

[3] These words were substituted by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (9 of 1891).

(ii) have been manufactured beyond the limits of India, or

(iii) having been manufactured within those limits have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881

11 The following shall be added after section 19 of the Sea Customs Act, 1878, namely — Addition of a section after section 19 Act VII of 1878

[1] "19A (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported Detention and confiscation of goods whose importation is prohibited

(2) The Governor General in Council may make regulations [2] either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention

[1] Cf the Merchandise Marks Act, 1887 [50 & 51 Vict, c 28, s 16 (2), (3), (4), (5), (7) and (8)]

[2] For rules made under this power conjointly with sections 19 and 20 see Genl R & O, Vol II p 639

(*Amendment of the Sea Customs Act, 1878. Stamping of Length of Piece-goods manufactured in British India. Supplemental Provisions.*)

(*6*) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes."

*Stamping of Length of Piece-goods manufactured in British India.*

**Stamping of length of piece-goods manufactured in British India.**

**12.** (*1*) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the [1]Indian Factories Act, 1881, shall not be removed from XV those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(*2*) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (*1*), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

*Supplemental Provisions.*

**Evidence of origin of goods imported by sea.**

[2] **13.** In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this VII Act, be *primâ facie* evidence of the place or country in which the goods were made or produced.

**Costs of defence or prosecution.**

[3] **14.** (*1*) On any such prosecution as is mentioned in the last foregoing section or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act, which relate XLV to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(*2*) Such costs shall, on application to the Court, be recoverable as if they were a fine.

**Limitation of prosecution**

[4] **15.** No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the presecutor, whichever expiration first happens.

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[1] *See* now the Indian Factories Act, 1911 (12 of 1911).
[2] *Cf.* the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 10 (*2*)].
[3] *Cf. ibid*, s. 14.
[4] *Cf. ibid*, s. 15.

**16.** (*1*) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue [1]instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act

Authority of the Governor General in Council to issue instructions as to administration of this Act

(*2*) Instructions under sub section (*1*) may provide, among other matters, for the limits of variation, as regards number, quantity measure, gauge or weight, which are to be recognized by Criminal Courts as permissible in the case of any goods

[2] **17** On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer

Implied warranty on sale of marked goods

[3] **18** (*1*) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him

Savings

(*2*) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14

(*3*) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master

[4] **19.** [*Date of commencement of this Act as regards unstamped piece-goods*] *Rep Act IX of 1891*

[4][**19.** For the purpose of section 12 of this Act and clause (*f*) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, [5] declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece'

Definition of piece goods.

[1] For notifications containing such instructions, *see* Genl R and O, Vol II, and Bur R M, Vol II

[2] *Cf* the Merchandise Marks Act 1887 (50 & 51 Vict, c 28, s 17)

[3] *Cf ibid*, s 19

[4] Original s 19 and the words "Transitory Provision" prefixed thereto were repealed by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (9 of 1891), and ss 19 to 22, as they stand at present, were added by s 4, *ibid*

[5] For rules issued under this section, *see* Genl R and O, Vol II

Determination of character of goods by sampling.

**20.** (*1*) The Governor General in Council may make [1]rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples.

(*2*) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (*1*), the Court or officer of Customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(*3*) The average of the results of the testing in pursuance of rules under sub-section (*1*) or of an order under sub-section (*2*) shall be *primâ facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(*4*) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (*1*) or of an order under sub-section (*2*), desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of Customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of Customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (*1*), or in sub-section (*2*), as the case may be.

(*5*) The average of the results of the testing referred to in sub-section (*3*) and of the further testing under sub-section (*4*) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(*6*) Rules under this section shall be made after previous publication.

Information as to commission of offence.

**21.** An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

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[1] For rules issued under this section, *see* Genl. R. and O., Vol. II.

**22** If any person, being within British India, abets the commission, without British India, of any act which, if committed in [1] British India, would, under this Act, or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted ] Punishment of abetment in India of acts done out of India

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## THE SUCCESSION CERTIFICATE ACT, 1889

SECTIONS

1 to 12 Rep Act 39 of 1925

13 Amendment of Act VII, 1870

14 to 28 Rep Act 39 of 1925

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THE FIRST SCHEDULE —REP ACT 39 OF 1925

THE SECOND SCHEDULE —REP ACT 39 OF 1925

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ACT No VII OF 1889 [2]

*[8th March 1889 ]*

### An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons It is hereby enacted as follows —

**1—12** *Rep by Act 39 of 1925*

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[1] *Cf* s 108A of the Indian Penal Code (Act 45 of 1860)

[2] Repealed, with the exception of s 13 by the Indian Succession Act 1925 (39 of 1925)

Amendment of Act VII, 1870.

[1]**13.** (*1*) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely:—

VII

| Number. | | Proper fee. |
|---|---|---|
| [1]"11. Probate of a will or letters of administration with or without will annexed. | If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees. | Two per centum on such amount or value: provided that when after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code, No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant. |
| "12. Certificate under the Succession Certificate Act, 1889. | In any case . . . | Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.<br>NOTE.—(*1*) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for so far as such amount can be ascertained.<br>(*2*) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained. |
| [1]"12A. Certificate under the Regulation of the Bombay Code, No. VIII of 1827. | ... | (1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and |

[1] Section 13 in so far as it substituted Arts. 11 and 12A in the Court-fees Act, 1870, Sch. I, is now rendered obsolete by the Court-fees (Amendment) Act, 1910 (7 of 1910), s. 2, which has substituted new Arts. 11 and 12A.

| Number | | Proper fee |
|---|---|---|
| | | (2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees |

1870 (2) In the Court-fees Act, 1870, section 19, clause viii, for the words and figures " and certificate mentioned in the first schedule to this Act annexed No 12," the words and figures " and, save as regards debts and securities, a certificate under [1] Bombay Regulation VIII of 1827 " shall be substituted.

**14—28.** *Rep. by Act 39 of 1925*

THE FIRST SCHEDULE

(*Rep by Act 39 of 1925.*)

THE SECOND SCHEDULE

(*Rep by Act 39 of 1925* )

## ACT No VIII OF 1889 [2]

[*22nd March, 1889.*]

An Act to amend the Sea Customs Act, 1878 [3]* *

1878. WHEREAS it is expedient to amend the Sea Customs Act, 1878,[3] * * * * , It is hereby enacted as follows —

*Sea Customs Act, 1878*

1878. **1.** For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:— Amendment of section 37, Act VIII, 1878

" Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valua-

[1] Bom Code, Vol I.

[2] Short title, " The Sea Customs Act (1878) Amendment Act, 1889," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1889, Pt V, p 2, for Report of the Select Committee, see ibid, p 37, and for Proceedings in Council, see ibid Pt VI, pp. 6, 14 and 60

The Act is in force in Upper Burma (except the Shan States) as being a portion of the original Act 8 of 1878, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code

[3] The words " and the Indian Tariff Act, 1882," in the Title and Preamble and the heading " Indian Tariff Act, 1882," to section 3, have been omitted as the Indian Tariff Act, 1882 (11 of 1882) and ss 3 to 5 of this Act have been repealed by the Indian Tariff Act, 1894 (8 of 1894)

tion in force on the date on which application is made to clear such goods from the warehouse for home-consumption."

Amendment of section 115, Act VIII, 1878.

**2.** In section 115 of the same Act, for the words and figures "the second proviso to section 37" the words "such alteration" shall be substituted.

**3—5.** [*Amendment of Act XI, 1882.*] *Rep. by the Indian Tariff Act, 1894 (VIII of 1894).*

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## ACT No. I OF 1890.[1]

[*14th February, 1890.*]

## An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands: It is hereby enacted as follows:—

Title and extent.

**1.** (*1*) This Act may be called the Revenue Recovery Act, 1890.

(*2*) It extends to the whole of British India, [2] * * * and British Baluchistan; [3] *

[3] * * * * *

Definitions.

**2.** In this Act, unless there is something repugnant in the subject or context,—

(*1*) "district" includes a presidency-town;

(*2*) "Collector" means the chief officer in charge of the land-revenue administration of a district: and

(*3*) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1887, Pt. V, p. 128; for Report of the Select Committee, *see ibid*, 1890, Pt. V, p. 11, and for Proceedings in Council, *see ibid*, 1887, Pt. VI, pp. 66 and 67, and *ibid*, 1890, Pt. VI, pp. 7 and 12.

This Act has been declared in force in the Sonthál Parganas under s. 3 of the Sonthál Parganas Settlement Regulation (3 of 1872) as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code.

It has been declared in force in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), B. & O. Code.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code; in Arakan Hill District by Regulation 1 of 1916, s. 2.

The Act has been modified in its application to the Benares Family Domains, *see* s. 15 of U. P. Act 3 of 1904; U. P. Code, Vol. II.

[2] The words "inclusive of Upper Burma" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

[3] The word "and" at the end of sub-section (*2*), and sub-section (*3*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

**Recovery of public demands by enforcement of process in other districts than those in which they become payable.**

3. (*1*) Where an arrear of land-revenue, or a sum recoverable as an arrear of land revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(*a*) the name of the defaulter and such other particulars as may be necessary for his identification, and

(*b*) the amount payable by him and the account on which it is due.

(*2*) The certificate shall be signed by the Collector making it [1][or by any officer to whom such Collector may, by order in writing, delegate this duty,] and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(*3*) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in his own district.

**Remedy available to person denying liability to pay amount recovered under last foregoing section.**

4. (*1*) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(*3*) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

**Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities.**

5. Where any sum is recoverable as an arrear of land revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land revenue which has accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

**Property liable to sale under this Act.**

6. (*1*) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charg-

[1] These words were inserted by Schedule, Part I, of the Decentralisation Act, 1914 (4 of 1914).

ing of any immoveable property belonging to the defaulter in the district.

(*2*) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(*3*) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(*4*) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in [1] good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(*5*) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

Saving of local laws relating to revenue.

**7.** Nothing in the foregoing sections shall be construed—

(*a*) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or

(*b*) to authorise the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

Recovery in British India of certain public demands arising beyond British India.

**8.** When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

[1] *See* definition in the General Clauses Act, 1897 (10 of 1897), s. 3 (*20*).

## THE SCHEDULE

CERTIFICATE

[*See section 3, sub-section (1)* ]

From

The Collector of

To

The Collector of

Dated the of 18 .

The sum of Rs is payable on account of by , son of resident of who is believed (to be at ) (to have property consisting of at ) in your district

Subject to the provisions of the Revenue Recovery Act 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district and you are hereby desired so to recover it and to remit it to my office at

*A B*

*Collector of*

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## ACT No VI of 1890 [1]

[*7th March 1890* ]

### An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes It is hereby enacted as follows —

Title extent and commencement

**1** (*1*) This Act may be called the Charitable Endowments Act 1890

(*2*) It extends to the whole of British India inclusive of * * * *[2] British Baluchistan, and

(*3*) It shall come into force on the first day of October, 1890

Definition.

**2** In this Act "charitable purpose" includes relief of the poor, education medical relief and the advancement of any other object of

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[1] For Statement of Objects and Reasons see Gazette of India 1889 Pt V, p 137, for Report of the Select Committee *see ibid*, 1890, p 65, and for Proceedings in Council *see ibid*, 1889 Pt VI pp 117 and 190, and *ibid*, 1890, Pt VI, p 37

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1898) Bur Cod

The Act has been declared in force in the Sonthál Parganas under s 3 of the Sonthál Parganas Settlement Regulation (3 of 1872) as amended by the Sonthál Parganas Justice and Laws Regulation 1899 (3 of 1899) B & O Code, Vol I

[2] The words 'Upper Burma and' were repealed by the Fifth Schedule of the Burma Laws Act 1898 (13 of 1898) Bur Code

general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

Appointment and incorporation of Treasurer of Charitable Endowments.

**3.** (*1*) The [1][Local Government] may [2]appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to [3][such Local Government].

(*2*) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

Orders vesting property in Treasurer.

**4.** (*1*) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order, by [4]notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(*2*) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(*3*) A Local Government shall not make an order under sub-section (*1*) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely:—

(*a*) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(*b*) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(*c*) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

(*d*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India;

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[1] These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] For officers appointed under the powers conferred by this section, *see* Genl. R. & O., Vol. III.

For notification appointing the Accountant-General, Punjab, to be the Treasurer of Charitable Endowments for the North-West Frontier Province, *see* Gazette of India, 1901, Pt. I, p. 936.

[3] These words were substituted for the words "any Local Government" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[4] For notifications issued under this section in conjunction with s. 5, *see* different local Rules and Orders.

(*e*) a security expressly authorised by any order which the [1][Local Government] may make in this behalf

(*4*) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof

[2]5 (*1*) On application made as hereinafter mentioned and with the concurrence of the person or persons making the application the Local Government if it thinks fit may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments and may in such scheme appoint by name or office a person or persons not being or including such Treasurer to administer the property

Schemes for administration of property vested in the Treasurer

(*2*) On application made as hereinafter mentioned and with the concurrence of the person or persons making the application the Local Government may if it thinks fit modify any scheme settled under this section or substitute another scheme in its stead

(*3*) A scheme settled modified or substituted under this section shall subject to the other provisions of this section come into operation on a day to be appointed by the Local Government in this behalf and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead

(*4*) Such a scheme when it comes into operation shall supersede any decree or direction relating to the subject matter thereof in so far as such decree or direction is in any way repugnant thereto and its validity shall not be questioned in any Court nor shall any Court give in contravention of the provisions of the scheme or in any way contrary or in addition thereto a decree or direction regarding the administration of the property to which the scheme relates

(*5*) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained and in the opinion of the Local Government effect can reasonably be given to them

(*6*) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments it shall not come into operation until the property has become so vested

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[1] These words were substituted for the words "Governor General in Council" by s 2 and Sch I of the Devolution Act 1920 (38 of 1920)

[2] For notifications issued under this section and in conjunction with s 4 in different provinces see different local Rules and Orders

Mode of applying for vesting orders and schemes.

**6.** (*1*) The application referred to in the two last foregoing sections must be made,—

(*a*) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them; and

(*b*) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(*2*) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

Exercise by Governor General in Council of powers of Local Government.

**7.** (*1*) The Governor General in Council may [1]exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(*2*) When the Governor General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

Bare trusteeship of Treasurer.

**8.** (*1*) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

(*2*) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(*3*) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

Annual publication of list of properties

**9.** A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in

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[1] For notification in exercise of power conferred by s. 7 in conjunction with s. 4, as to the Indian People's Famine Trust and rules for the administration of the Fund, *see* Genl. R. & O., Vol. III; in the matter of the Indian Institute of Science, *see ibid.*

him under this Act and an abstract of all accounts kept by him under sub section (*2*) of the last foregoing section. *vested in Treasurer.*

*Limitation of functions and powers of Treasurer.*

**10** (*1*) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not as such Treasurer, take or hold any property otherwise than under the provisions of this Act or subject to those provisions transfer any property vested in him except in obedience to a decree divesting him of the property or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(*2*) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him and with the sanction of the authority issuing the direction to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub section (*3*), clause (*a*), (*b*), (*c*), (*d*) or (*e*), or in the purchase of immoveable property.

(*3*) When a Treasurer of Charitable Endowments is divested by a direction of the Local Government or the Governor General in Council under this section of any property it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

*Provision for continuance of office of Treasurer in certain contingencies.*

**11** If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed the [1][Local Government] may appoint the same or another officer of the Government by the name of his office to be such Treasurer and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

*Transfer of property from one Treasurer to another.*

**12** [2] If by reason of an alteration of the limits of the territories subject to a Local Government or for any other reason it appears to the Governor General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer he may direct that the property shall be so vested and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

*Power to frame forms and make rules.*

[3][**13** (*1*) The Governor General in Council may prescribe forms for

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[1] These words were substituted for the words "Governor General in Council" by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] For instance of a notification issued under this section, see Punj. R. & O.

[3] This section was substituted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

any proceedings under this Act any may make rules consistent with this Act for prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments.

(2) The Local Government may make rules consistent with this Act for—

(*a*) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments;

(*b*) regulating the cases and the mode in which schemes or any modification thereof are to be published before they are settled or made under section 5;

(*c*) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments and the mode in which such accounts are to be audited; and

(*d*) generally carrying into effect the purposes of this Act.]

Indemnity to Government and Treasurer.

**14.** No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

Saving with respect to Advocate General and Official Trustee.

**15.** Nothing in this Act shall be construed to impair the operation of section 111 of the [1]Statute 53, George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act [2]No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

**16.** [*General controlling authority of Governor General in Council.*] *Rep. by the Devolution Act, 1920 (38 of 1920).*

[1] The East India Company Act, 1813 (Coll. Stat., Vol. I), now repealed by the Government of India Act, 1915.
[2] The Official Trustees Act, 1864.

# THE GUARDIANS AND WARDS ACT, 1890.

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ACT No. VIII OF 1890.[1]

[*21st March, 1890.*]

## An Act to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows:—

### CHAPTER I.

### PRELIMINARY.

**1.** (*1*) This Act may be called the Guardians and Wards Act, 1890. Title, extent and commencement.

(*2*) It extends to the whole of British India, inclusive of [2]* * * British Baluchistan; and

(*3*) It shall come into force on the first day of July, 1890.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. V, p. 77; for Report of the Select Committee, see ibid., 1890, Pt. V, p. 77; and for Debates in Council, see ibid., 1886, Supplement, pp. 419 and 666, and ibid., 1890, Pt. VI, pp. 33 and 45.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

T[illegible] Sonthál Parganas by s. 3 of the Sonthál Parg[illegible] as amended by the Sonthál Parganas Just[illegible] B. & O. Code, Vol. I.

I[illegible] the Angul Laws Regulation, 1913 (3 o[illegible]

It has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, by notification under s. 3 (2) of the Scheduled Districts Act, 1874 (14 of 1874), see Gazette of India, 1898, Pt. I, p. 872.

[2] The words "Upper Burma and" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

(*Chapter I.—Preliminary.*)

Repeal.

2. (*1*) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(*2*) But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act; and

(*3*) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Saving of jurisdiction of Courts of Wards and Chartered High Courts.

3. This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor General in Council or by a Governor or Lieutenant-Governor in Council; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the [1]Statute 24 and 25 Victoria, Chapter 104 (*an Act for establishing High Courts of Judicature in India*).

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is to be deemed not to have attained his majority: IX

(*2*) "guardian" means a person having the care of the person of a minor or of his property, or of both his person and property:

(*3*) "ward" means a minor for whose person or property, or both, there is a guardian:

(*4*) "District Court" has the meaning assigned to that expression in the [2]Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction: XIV

[3][(*5*) "the Court" means—

(*a*) the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; or

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[1] The Indian High Courts Act, 1861, Coll. Stat., Vol. I, now repealed by the Government of India Act, 1915.

[2] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

[3] Substituted by s. 3 of the Guardian and Wards (Amendment) Act, 1926 (4 of 1926).

(*b*) where a guardian has been appointed or declared in pursuance of any such application—

(*i*) the Court which, or the Court of the officer who, appointed or declared the guardian or is under this Act deemed to have appointed or declared the guardian, or

(*ii*) in any matter relating to the person of the ward the District Court having jurisdiction in the place where the ward for the time being ordinarily resides, or

(*c*) in respect of any proceeding transferred under section 4A, the Court of the officer to whom such proceeding has been transferred.]

(*6*) "Collector" means the chief officer in charge of the revenue-administration of a [1]district, and includes any officer whom the [2]Local Government, by notification in the official Gazette, may by name or in virtue of his office appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act.

(*7*) "European British subject" means an European British subject as defined in the [3]Code of Criminal Procedure, 1882, and includes any Christian of European descent; and

(*8*) "prescribed" means prescribed by rules made by the High Court under this Act.

Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers.

[4][**4A.** (*1*) The High Court may, by general or special order, empower any officer exercising original civil jurisdiction subordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section.

(*2*) The Judge of a District Court may, by order in writing, transfer at any stage any proceeding under this Act pending in his Court for disposal to any officer subordinate to him empowered under sub-section (*1*).

(*3*) The Judge of a District Court may at any stage transfer to his own Court or to any officer subordinate to him empowered under sub

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[1] For appointments of Collectors under this sub-section in—

(1) the Presidency of Bombay, *see* the Bom. R. & O.

(2) the United Provinces of Agra and Oudh, *see* U. P. R. & O.

[2] The powers of the Local Government under this sub-section have been delegated to the Commissioner in Sindh, *vide* Notification No. 3453, dated 17th May 1899, Bom. Govt. Gazette 1899, Pt. I, p. 656.

[3] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[4] Inserted by s. 2 of the Guardians and Wards (Amendment) Act, 1926 (1 of 1926).

section (*1*) any proceeding under this Act pending in the Court of any other such officer.

(*4*) When any proceedings are transferred under this section in any case in which a guardian has been appointed or declared, the Judge of the District Court may, by order in writing, declare that the Court of the Judge or officer to whom they are transferred shall, for all or any of the purposes of this Act, be deemed to be the Court which appointed or declared the guardian.]

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## CHAPTER II.

### APPOINTMENT AND DECLARATION OF GUARDIANS.

Power of parents to appoint in case of European British subjects.

**5.** (*1*) Where a minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

(*a*) by the father of the minor, or,

(*b*) if the father is dead or incapable of acting, by the mother.

(*2*) Where guardians have been appointed under sub-section (*1*) by both parents, they shall act jointly.

Saving of power to appoint in other cases.

**6.** In the case of a minor who is not a European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

Power of the Court to make order as to guardianship.

**7.** (*1*) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(*a*) appointing a guardian of his person or property, or both, or

(*b*) declaring a person to be such a guardian,

the Court may make an order accordingly.

(*2*) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(*3*) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

Persons entitled to apply for order.

**8.** An order shall not be made under the last foregoing section except on the application of—

(*a*) the person desirous of being, or claiming to be, the guardian of the minor, or

(*b*) any relative or friend of the minor ; or

(*c*) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property ; or

(*d*) the Collector having authority with respect to the class to which the minor belongs.

**9.** (*1*) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides. **Court having jurisdiction to entertain application.**

(*2*) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(*3*) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

**10.** (*1*) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the [1] Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,— **Form of application.**

(*a*) the name, sex, religion, date of birth and ordinary residence of the minor ;

(*b*) where the minor is a female, whether she is married, and if so, the name and age of her husband ;

(*c*) the nature, situation and approximate value of the property, if any, of the minor ;

(*d*) the name and residence of the person having the custody or possession of the person or property of the minor ;

(*e*) what near relations the minor has and where they reside ;

(*f*) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment ;

(*g*) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result ;

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(*h*) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both:

(*i*) where the application is to appoint a guardian, the qualifications of the proposed guardian:

(*j*) where the application is to declare a person to be a guardian, the grounds on which that person claims:

(*k*) the causes which have led to the making of the application; and

(*l*) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(*2*) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (*1*).

(*3*) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses.

Procedure on admission of application.

**11.** (*1*) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

(*a*) to be served in the manner directed in the [1]Code of Civil Procedure on— XIV

(*i*) the parents of the minor if they are residing in British India,

(*ii*) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,

(*iii*) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and

(*iv*) any other person to whom, in the opinion of the Court, special notice of the application should be given; and

(*b*) to be posted on some conspicuous part of the court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(2) The Local Government may, by [1]general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate and the Collector may cause the notice to be published in any manner he deems fit

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2)

Power to make interlocutory order for production of minor and interim protection of person and property

**12** (1) The Court may direct that the person if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub section (1) for her production shall require her to be produced in accordance with the customs and manners of the country

(3) Nothing in this section shall authorise—

(a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband unless she is already in his custody with the consent of her parents if any or

(b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property

Hearing of evidence before making of order

**13** On the day fixed for the hearing of the application or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application

Simultaneous proceedings in different Courts

**14** (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had

(3) In any other case in which proceedings are stayed under sub section (1), the Courts shall report the case through the Local Govern-

[1] For instance of such order, see— { U P R & O / Ben R & O

ment to the Governor General in Council, and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

Appointment or declaration of several guardians.

**15.** (*1*) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

(*2*) On the death of a father, being an European British subject, who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father.

(*3*) On the death of a mother, being an European British subject, who during the incapacity of the father of her minor child has, by will or other instrument to take effect on her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.

(*4*) Separate guardians may be appointed or declared of the person and of the property of a minor.

(*5*) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

Appointment or declaration of guardian for property beyond jurisdiction of the Court.

**16.** If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

Matters to be considered by the Court in appointing guardian.

**17.** (*1*) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

(*2*) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(*3*) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(*4*) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but other things being equal, if the minor is a male of

tender years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business, then to the father

(*5*) The Court shall not appoint or declare any person to be a guardian against his will

**Appointment or declaration of Collector in virtue of office**

**18** Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both of a minor, the order appointing or declaring him shall be deemed to authorise and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property or both, as the case may be

**Guardian not to be appointed by the Court in certain cases**

**19** Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards or to appoint and declare a guardian of the person—

(*a*) of a minor who is a married female and whose husband is not, in the opinion of the Court unfit to be guardian of her person or

(*b*) subject to the provisions of this Act with respect to European British subjects of a minor whose father is living and is not, in the opinion of the Court unfit to be guardian of the person of the minor or

(*c*) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor

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## CHAPTER III

### Duties Rights and Liabilities of Guardians

*General*

**Fiduciary relation of guardian to ward.**

**20** (*1*) A guardian stands in a fiduciary relation to his ward and, save as provided by the will or other instrument, if any by which he was appointed or by this Act he must not make any profit out of his office

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian immediately or soon after the ward has ceased to be a minor and generally all transactions between them while the influence of the guardian still lasts or is recent

(*Chapter III.—Duties, Rights and Liabilities of Guardians.*)

Capacity of minors to act as guardians.

**21.** A minor is incompetent to act as guardian of any minor except his own wife or child or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

Remuneration of guardian.

**22.** (*1*) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

(*2*) When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by [1]general or special order, directs.

Control of Collector as guardian.

**23.** A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local Government or of such authority as that Government, by [2]notification in the official Gazette, appoints in this behalf.

*Guardian of the Person.*

Duties of guardian of the person.

**24.** A guardian of the person of a ward is charged with the custody of the ward and must look to his support, health and education, and such other matters as the law to which the ward is subject requires.

Title of guardian to custody of ward.

**25.** (*1*) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian.

(*2*) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the [3]Code of Criminal Procedure, 1882. X of 1[...]

(*3*) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

**26.** (*1*) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(*2*) The leave granted by the Court under sub-section (*1*) may be special or general, and may be defined by the order granting it.

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[1] For instance of such order, *see* Ben. R. & O., Vol. II.

[2] For notifications appointing authorities to whose control Collectors appointed under the Act shall be subject, *see* different local Rules and Orders.

[3] *See now the Code of Criminal Procedure, 1898 (Act 5 of 1898).*

*Guardian of Property*

**27** A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property

Duties of guardian of property

**28** Where a guardian has been appointed by will or other instrument, his power to mortgage or charge or transfer by sale, gift exchange or otherwise immoveable property belonging to his ward is subject to any restriction which may be imposed by the instrument unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order

Powers of testamentary guardian.

**29** Where a person other than a Collector or than a guardian appointed by will or other instrument has been appointed or declared by the Court to be guardian of the property of a ward he shall not without the previous permission of the Court —

(*a*) mortgage or charge or transfer by sale gift exchange or otherwise any part of the immoveable property of his ward or

(*b*) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor

Limitation of powers of guardian of property appointed or declared by the Court

**30** A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby

Voidability of transfers made in contravention of section 28 or section 29

**31** (*1*) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward

Practice with respect to permitting transfers under section 29

(*2*) The order granting the permission shall recite the necessity or advantage as the case may be describe the property with respect to which the act permitted is to be done and specify such conditions, if any as the Court may see fit to attach to the permission and it shall be recorded dated and signed by the Judge of the Court with his own hand or when from any cause he is prevented from recording the order with his own hand shall be taken down in writing from his dictation and be dated and signed by him

(*3*) The Court may in its discretion attach to the permission the following among other conditions namely —

(*a*) that a sale shall not be completed without the sanction of the Court

(*b*) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;

(*c*) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;

(*d*) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(*4*) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

Variation of powers of guardian of property appointed or declared by the Court

**32.** Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

**33.** (*1*) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

(*2*) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(*3*) The guardian stating in [1] good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

Obligations on guardian of property: appointed or declared by the Court.

**34.** [2]Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

(*a*) if so required by the Court, give a bond, as nearly as may be in

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[1] *See* s. 3 (*20*) of the General Clauses Act, 1897 (10 of 1897).

[2] For instance of notifications issued under this section, *see* Bom. R. & O.

the prescribed form to the Judge of the Court to enure for the benefit of the Judge for the time being with or without sureties as may be prescribed engaging duly to account for what he may receive in respect of the property of the ward

(*b*) if so required by the Court deliver to the Court within six months from the date of his appointment or declaration by the Court or within such other time as the Court directs a statement of the immoveable property belonging to the ward of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement and of the debts due on that date to or from the ward

(*c*) if so required by the Court exhibit his accounts in the Court at such times and in such form as the Court from time to time directs

(*d*) if so required by the Court pay into the Court at such time as the Court directs the balance due from him on those accounts or so much thereof as the Court directs and

(*e*) apply for the maintenance education and advancement of the ward and of such persons as are dependent on him and for the celebration of ceremonies to which the ward or any of those persons may be a party such portion of the income of the property of the ward as the Court from time to time directs and if the Court so directs the whole or any part of that property

**35** Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward the Court may on application made by petition and on being satisfied that the engagement of the bond has not been kept and upon such terms as to security or providing that any money received be paid into the Court or otherwise as the Court thinks fit assign the bond to some proper person who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court and shall be entitled to recover thereon as trustee for the ward in respect of any breach thereof

Suit against guardian where administration bond was taken

**36** (*1*) Where a guardian appointed or declared by the Court has not given a bond as aforesaid any person with the leave of the Court may as next friend at any time during the continuance of the minority of the ward and upon such terms as aforesaid institute a suit against the guardian or in case of his death against his representative for an account of what the guardian has received in respect of the property of the ward and may recover in the suit as trustee for the ward such

Suit against guardian where administration bond was not taken

amount as may be found to be payable by the guardian or his representative, as the case may be.

(*2*) The provisions of sub-section (*1*) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.[1] XIV

General liability of guardian as trustee.

**37.** Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

*Termination of Guardianship.*

Right of survivorship among joint guardians.

**38.** On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

**39.** The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes, namely:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform the duties of his trust;

(*c*) for incapacity to perform the duties of his trust;

(*d*) for ill-treatment, or neglect to take proper care, of his ward;

(*e*) for contumacious disregard of any provision of this Act or of any order of the Court;

(*f*) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward;

(*g*) for having an interest adverse to the faithful performance of his duties;

(*h*) for ceasing to reside within the local limits of the jurisdiction of the Court;

(*i*) in the case of a guardian of the property, for bankruptcy or insolvency;

(*j*) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:

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[1] *See* now Order XXXII, rules 1 and 4 (*2*) in the First Schedule to the Code of Civil Procedure, 1908 (Act 5 of 1908).

Provided that a guardian appointed by will or other instrument whether he has been declared under this Act or not shall not be removed—

(a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or

(b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

**40.** (1) If a guardian appointed or declared by the Court desires to resign his office he may apply to the Court to be discharged. Discharge of guardian

(2) If the Court finds that there is sufficient reason for the application it shall discharge him and if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.

**41.** (1) The powers of a guardian of the person cease— Cessation of authority of guardian

(a) by his death, removal or discharge;

(b) by the Court of Wards assuming superintendence of the person of the ward;

(c) by the ward ceasing to be a minor;

(d) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or if the guardian was appointed or declared by the Court, by her marriage to a husband who is not in the opinion of the Court so unfit, or,

(e) in the case of a ward whose father was unfit to be guardian of the person of the ward by the father ceasing to be so or if the father was deemed by the Court to be so unfit by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

(a) by his death removal or discharge;

(b) by the Court of Wards assuming superintendence of the property of the ward, or

(c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward

or any accounts in his possession or control relating to any past or present property of the ward.

(*4*) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

Appointment of successor to guardian dead, discharged or removed.

**42.** When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

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## CHAPTER IV.

### SUPPLEMENTAL PROVISIONS.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.

**43.** (*1*) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

(*2*) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(*3*) Except where it appears that the object of making an order under sub-section (*1*) or sub-section (*2*) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (*1*), to the guardian or, in a case under sub-section (*2*), to the guardian who has not made the application.

(*4*) In case of disobedience to an order made under sub-section (*1*) or sub-section (*2*), the order may be enforced in the same manner as an injunction granted under [1] section 492 or section 493 of the Code of Civil Procedure, in a case under sub-section (*1*), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (*2*), as if the guardian who made the application were the plaintiff and the other guardian were the defendant. XIV o

(*5*) Except in a case under sub-section (*2*), nothing in this section shall apply to a Collector who is, as such, a guardian.

Penalty for removal of ward from jurisdiction.

**44.** If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the

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[1] *See* now Order XXXIX, rules 1 and 2 in the First Schedule to the Code of Civil Procedure, 1908 (Act 5 of 1908).

jurisdiction of the Court in contravention of the provisions of section 26 he shall be liable by order of the Court to fine not exceeding one thousand rupees or to imprisonment in the civil jail for a term which may extend to six months

**45** (*1*) In the following cases namely — Penalty for contumacy

(*a*) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12 sub section (*1*) or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25 sub section (*1*) or

(*b*) if a guardian appointed or declared by the Court fails to deliver to the Court within the time allowed by or under clause (*b*) of section 34 a statement required under that clause or to exhibit accounts in compliance with a requisition under clause (*c*) of that section or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (*d*) of that section or

(*c*) if a person who has ceased to be a guardian or the representative of such a person fails to deliver any property or accounts in compliance with a requisition under section 41 sub section (*3*)

the person guardian or representative as the case may be shall be liable by order of the Court to fine not exceeding one hundred rupees and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues and not exceeding five hundred rupees in the aggregate and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced or to compel his return or to deliver the statement or to exhibit the accounts or to pay the balance or to deliver the property or accounts as the case may be

(*2*) If a person who has been released from detention on giving an undertaking under sub section (*1*) fails to carry out the undertaking within the time allowed by the Court the Court may cause him to be arrested and re committed to the civil jail

**46** (*1*) The Court may call upon the Collector or upon any Court subordinate to the Court for a report on any matter arising in any proceeding under this Act and treat the report as evidence Reports by Collectors and Subordinate Courts

(*2*) For the purpose of preparing the report the Collector or the Judge of the subordinate Court as the case may be shall make such inquiry as he deems necessary and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or

THE SCHEDULE—*continued.*

| Number and year | Title or subject | Extent of repeal |
|---|---|---|
| | *Acts of the Governor General in Council*—contd | |
| [1]XIV of 1882 | Code of Civil Procedure | The second paragraph of section 443 |
| [2]XVIII of 1884 | Punjab Courts Act 1884 | So much of section 29 as has not been repealed |
| [3] * * * * | * * * * | * * * * * |
| [4]XII of 1887 | [5]Bengal North Western Provinces and Assam Civil Courts Act 1887 | Clause (b) of section 23 sub-section (2) |
| [6] * * * * | * * * * | * * * * * |
| | *Madras Regulations* | |
| [7]V of 1804 | Court of Wards | Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards |
| [8]X of 1831 | Minors Estates | Section 3 |
| | *Regulations under the Statute 33 Victoria Chapter 3* | |
| [9]IX of 1874 | Arakan Hill District Laws | So far as it relates to Acts XL of 1858 and IX of 1861 |

# THE INDIAN RAILWAYS ACT, 1890

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(*2*) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(*3*) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

**3.** In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*1*) "tramway" means a tramway constructed under the Indian
886. Tramways Act, 1886, or any special Act relating to tramways:

(*2*) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing places of, a ferry:

(*3*) "inland water" means any canal, river, lake or navigable water in British India:

(*4*) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

- (*a*) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;
- (*b*) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway;
- (*c*) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway; and
- (*d*) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway:

(*5*)[1] "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway:

(*6*) "railway administration" or "administration," in the case of a railway administered by the Government or a Native State, means the manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company:

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[1] *Cf.* the Regulation of Railways Act, 1871 (34 and 35 Vict., c. 78), s. 2.

(*7*) "railway servant" means any person employed by a railway administration in connection with the service of a railway

(*8*) "Inspector" means an Inspector of Railways appointed under this Act

(*9*)[1] "goods" includes inanimate things of every kind

(*10*)[2] "rolling stock" includes locomotive engines, tenders, carriages, wagons trucks and trollies of all kinds

(*11*)[3] "traffic" includes rolling stock of every description, as well as passengers, animals and goods

(*12*) "through traffic" means traffic which is carried over the railways of two or more railway administrations

(*13*)[2] "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods

(*14*)[4] "terminals" includes charges in respect of stations, sidings, wharves depôts, warehouses cranes and other similar matters, and of any services rendered thereat

(*15*) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously

(*16*) "ticket" includes a single ticket a return ticket and a season ticket

(*17*) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy and

(*18*)[5] "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act

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## CHAPTER II

### INSPECTION OF RAILWAYS

4[6] (*1*) The Governor General in Council may [7]appoint persons, by name or by virtue of their office to be Inspectors of Railways — Appoin[tment] and dut[ies of] inspecto[rs]

(*2*) The duties of an Inspector of Railways shall be—

(*a*) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to

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[1] *Cf* the Railways Clauses Act 1845 (8 & 9 Vict c 20), s 3
[2] *Cf* t[illegible] 2
[3] *Cf* t[illegible]
[4] *Cf* t[illegible]
[5] *See* [illegible] 97
[6] *Cf* [illegible]
[7] For [illegible]
Governm[illegible]

report thereon to the Governor General in Council as required by this Act;

(*b*) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct;

(*c*) to make inquiry under this Act into the cause of any accident on a railway;

(*d*) to perform such other duties as are imposed on him by this Act, or any other enactment for the time being in force relating to railways.

Powers of Inspectors.

**5.**[1] An Inspector shall, for the purpose of any of the duties which he is required or authorized to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject XL to the control of the Governor General in Council, shall for that purpose have the following powers, namely:—

(*a*) to enter upon and inspect any railway or any rolling-stock used thereon;

(*b*) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(*c*) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

Facilities to be afforded to Inspectors.

**6.** A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

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## CHAPTER III.

### CONSTRUCTION AND MAINTENANCE OF WORKS.

Authority of railway administrations to execute all necessary works.

**7.**[2] (*1*) Subject to the provisions of this Act and, in the case of immoveable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the

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[1] *Cf.* the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 4.

[2] *Cf.* the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 16.

purpose of constructing a railway or the accommodation or other works connected therewith and notwithstanding anything in any other enactment for the time being in force —

(*a*) make or construct in upon across under or over any lands, or any streets, hills, valleys, roads railways or tramways, or any rivers canals brooks streams or other waters, or any drains, water pipes, gas pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, [1][lines of railway], ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper,

(*b*) alter the course of any rivers, brooks, streams, or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter as well temporarily as permanently, the course of any rivers brooks streams or watercourses or any roads streets or ways or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway

(*d*) erect and construct such houses warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper,

(*e*) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead and

(*f*) do all other acts necessary for making, maintaining, altering or repairing and using the railway

(2) The exercise of the powers conferred on a railway administration by sub section (*1*) shall be subject to the control of the Governor General in Council

8 A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas water or compressed air or the position of any electric wire or of any drain not being a main drain Alteration of pipes, wires and drains.

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, wire or drain, it shall give reasonable

[1] These words were added by s 1 of the Indian Railways Act (1890) Amendment Act 1896 (9 of 1896)

notice of its intention to do so, and of the time at which it will begin to do so, to the [1]local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(*b*) a local authority, company or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

Temporary entry upon land for repairing or preventing accident.

**9.**[2] (*1*) The Governor General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(*2*) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.

**10.** (*1*) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(*2*) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, [3][with the provisions

[1] For definition of "local authority," *see* s. 135 (*5*) of this Act and s. 3 (*28*) of the General Clauses Act, 1897 (10 of 1897).

[2] *Cf.* the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 14.

[3] These words and figures were substituted for the words and figures "with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land Acquisition Act, 1870, and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation," by s. 2 of the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896).

of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation]

Accommodation works.

**11.**[1] (*1*) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely —

(*a*) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(*b*) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be

(*2*) Subject to the other provisions of this Act, the work specified in clauses (*a*) and (*b*) of sub-section (*1*) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works

(*3*) The foregoing provisions of this section are subject to the following provisos, namely —

(*a*) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made,

(*b*)[2] save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic,

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[1] *Cf* the Railways Clauses Act, 1845 (8 & 9 Vict , c 20), s 68
[2] *Cf* *ibid*, s 78

(*c*) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(*4*)[1] The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (*1*), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

**12.**[2] If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the Governor General in Council.

Fences, screens, gates and bars.

**13.**[3] The Governor General in Council may require that, within a time to be specified in the requisition, or within such further time as he may appoint in this behalf,—

(*a*) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(*b*)[4] any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway;

(*c*)[5] suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

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[1] *Cf.* the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 70.
[2] *Cf. ibid*, s. 71.
[3] *Cf.* the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 10.
[4] *Cf.* the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 63.
[5] *Cf.* the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 9.

(*d*)[1] persons be employed by a railway administration to open and shut such gates chains or bars

**14** [2] (*1*) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level crossing

**Over and under bridges**

(*2*)[3] The Governor General in Council may require as a condition of making a requisition under sub section (*1*), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just

**15.**[4] (*1*) In either of the following cases, namely —

**Removal of trees dangerous to or obstructing the working of a railway**

(*a*) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(*b*) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be

(*2*) In case of emergency the power mentioned in sub section (*1*) may be exercised by a railway administration without the permission of a Magistrate

(*3*) Where a tree felled or otherwise dealt with under sub-section (*1*) or sub section (*2*) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable

(*4*) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final

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[illegible] 9 Vict, c 20), s 48
[illegible] 27 Vict, c 92), s 7
[illegible] 9 Vict c 20), s 46, and the [illegible]
[illegible] 25), s 16
[illegible] (31 & 32 Vict, c 119), s 24

(*Chapter IV —Opening of Railways* )

(*e*) that general rules for the working of the railway when opened for the public carriage of passengers have been made sanctioned and published under this Act and

(*f*) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it

(*2*)[1] If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway

(*3*) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it

(*4*) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public

(*5*) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council

**20.**[2] (*1*) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub section (*2*) when those works form part of or are directly connected with a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway

Application of the provisions of the three last foregoing sections to material alterations of a railway

(*2*) The works referred to in sub section (*1*) are additional lines of railway, deviation lines stations, junctions and crossings on the level and any alteration or re construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section

**21.** When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored or the temporary diversion, as the case may be, may,

Exceptional provision.

[1] Cf the Railway Regulation Act, 1842 (5 & 6 Vict c 55) s 6
[2] Cf the Regulation of Railways Act 1871 (34 & 35 Vict c 78), s 5

(*5*) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

## CHAPTER IV.

### Opening of Railways.

Right to use locomotives.

**16.**[1] (*1*) A railway administration may, with the previous sanction of the Governor General in Council, [2]use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(*2*) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

Notice of intended opening of a railway.

**17.** (*1*) Subject to the provisions of sub-section (*2*), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(*2*) The Governor General in Council may, in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (*1*).

Sanction of the Government a condition precedent to the opening of a railway.

**18.** A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Procedure in sanctioning the opening of a railway.

**19.** (*1*) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

(*a*) that he has made a careful inspection of the railway and rolling-stock;

(*b*) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed;

(*c*)[3] that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor General in Council;

(*d*) that the railway is sufficiently supplied with rolling-stock;

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[1] *Cf.* the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 86.

[2] For notifications sanctioning the use of motive power and rolling-stock on railways, *see* different local Rules and Orders.

[3] *Cf.* the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

(e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act, and

(f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it

(2)[1] If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway

(3) An order under the last foregoing sub section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council

**20.**[2] (1) The provisions of sections 17, 18 an
opening of a railway shall extend to the opening
in sub section (2) when those works form part of,
with a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway

[Margin: ...at foregoing sections to material alterations of a railway]

(2) The works referred to in sub section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level and any alteration or re construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section

**21.** When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may,

[Margin: Exceptional provision.]

[1] *Cf* the Railway Regulation Act, 1842 (5 & 6 Vict , c 55) s 6
[2] *Cf* the Regulation of Railways Act, 1871 (34 & 35 Vict , c 78), s 5

in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(*a*) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion; and

(*b*) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

Power to make rules with respect to the opening of railways.

**22.** The Governor General in Council may make [1]rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to close an opened railway.

**23.** (*1*) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council; and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor General in Council may consider necessary for the safety of the public.

(*2*)[2] An order under sub-section (*1*) must set forth the grounds on which it is founded.

Re-opening of a closed railway.

**24.** (*1*) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected and its re-opening sanctioned, in accordance with the provisions of this Act.

(*2*) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(*3*) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

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[1] For rules, *see* Genl. R. & O., Vol. III.
[2] *Cf.* the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

25. (*1*) The Governor General in Council may, by general or special order, authorize the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself

Delegation of powers under this Chapter to Inspectors.

(*2*) A condition imposed under sub section (*1*) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council

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## CHAPTER V

### Railway Commissions and Traffic Facilities

*Railway Commissions*

26 [1] (*1*) For the purposes of this Chapter the Governor General in Council shall as occasion may in his opinion require, appoint a commission styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners

Constitution of Railway Commission.

(*2*) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints

(*3*) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the [2]Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, Chapter 104,[3] the Chief Justice [4][or, in the case of the Chief Court of Oudh, the Chief Judge] [5]* * * may, on the request of the Governor General in Council, assign by writing under his hand.

f 1882

(*4*) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Gov

Restriction

[illegible]

[3] (Act 5 of 1893) ... at, Vol I, now repealed by the ...

... of the Oudh Courts (Supplementary) Act, 1925 (32 of 1925)

[5] The words " or, in the case of the Chief Court of Lower Burma, the Chief Judge " (which were substituted for the original words by s 2 of Act 18 of 1910) were repealed by s 3 and Sch II of the Repealing and Amending Act, 1923 (11 of 1923)

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the [1]Code of Civil Procedure and may make any order which the Commissioners could have made. XIV of 1882

Operation of orders of Railway Commission.

**32.** Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court

Assessors

**33** (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct

Power of the Governor General in Council to make rules for the purposes of this Chapter

**34.** The Governor General in Council may make [2]rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners

Costs of proceedings under this Chapter

**35.** The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court

Execution of order of Railway Commission and High Court

[3]**36** (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub section (1) or to the Government

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908)

[2] For such rules *see* Genl R & O, Vol III

[3] *Cf* the Railway and Canal Traffic Act 1854 (17 & 18 Vict, c 31),

(*Chapter V.—Railway Commissions and Traffic Facilities.*)

Evidence of documents.

**37.** A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Submission to the Governor General in Council of special reports by Railway Commission.

**38.** The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Dissolution of Railway Commission.

**39.** Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.

**40.** Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

**41.**[1] Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

*Traffic Facilities.*

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

**42.**[2] (*1*) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(*2*) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic,

[1] *Cf.* the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 6.

[2] *Cf.* the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 90; the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 2; and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25.

in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever

(*3*) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another [1]railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf

(*4*) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates

Provided as follows —

(*a*) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded The proposed through rate for animals or goods may be per truck or per maund,

(*b*) each forwarding railway administration shall within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are

(*c*) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period,

(*d*) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision,

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[1] *Cf* the Railway and Canal Traffic Act 1854 (17 & 18 Vict , c 31), s 1

(*e*) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;

(*f*) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case;

(*g*) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

(*h*) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;

(*i*) [1]subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;

(*j*) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

**Undue preference in case of unequal rates for like traffic for services.**

43.[2] (*1*) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or

[1] *Cf.* the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 12.
[2] *Cf.* the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 27.

to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made

**Provision for facilities and equal treatment where ships or boats are used which are not part of a railway**

**44.**[1] Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway

**Terminals**

**45.** A railway administration may charge reasonable terminals

**Power of Railway Commission to fix terminals**

**46**[2] (1) The Governor General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals

(2)[3] In deciding the question or dispute, the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation

## CHAPTER VI

### Working of Railways

*General*

**General rules**

**47.**[4] (1) Every railway company and in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make [5]general rules consistent with this Act for the following purposes, namely —

(a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;

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[1] *Cf* the Railway and Canal Traffic Act 1888 (51 & 52 Vict , c 25), s 25
[2] *Cf* the Reg lat on of R lway A t 1873 36 & 37 Vict , c 48), s 15
[3] *Cf* the 2 Vict , c 25), s 24 (1)
[4] *Cf* the c 97), ss. 7 to 9, and the Railways Cl
[5] For gen uction, *see* Genl R & O , Vol III

(*b*) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage;

(*c*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

(*d*) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;

(*e*) for regulating the conduct of the railway servants;

(*f*)[1] for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and

(*g*)[2] generally, for regulating the travelling upon, and the use, working and management of, the railway.[3]

(*2*) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees,[4] and that in the case of a rule made under clause (*e*) of sub-section (*1*), the railway servants shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(*3*) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India:

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette, referring to the rule already published and announcing the adoption thereof, shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(*4*) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (*1*) to make rules thereunder may at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.

(*5*) Every rule purporting to have been made for any railway under section 8 of the [5]Indian Railways Act, 1879, and appearing from the IV of 1879.

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[1] For rules applicable to all railways in British India regulating the terms and conditions on which railway administrations will warehouse or retain goods at any station or depôt on behalf of consignee or owner, *see* Genl. R. & O., Vol. III.

[2] For general rules for all open lines of railway in British India, *see* separate pamphlet published by the Railway Board.

[3] *Cf.* the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 32.

[4] *Cf.* the Canadian Railway Act, 1886 (49 Vict., c. 109), s. 86.

[5] Repealed by this Act.

Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times

**48** [1] Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively

**Disposal of differences between railways regarding conduct of joint traffic**

**49.**[2] Any railway company, not being a company for which the [3]Statute 42 and 43 Vict , Chap 41, provides, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock

**Agreements with the Governor General in Council for construction or lease of rolling-stock**

**50** [4] Any railway company, not being a company for which the [3]Statute 42 and 43 Vict , Chap 41, provides, may from time to time make with the Governor General in Council, and carry into effect, or, with the sanction of the [5]Governor General in Council, make with any other railway [6]administration, and carry into effect, any agreement with respect to any of the following purposes, namely —

**Powers of railway companies to enter into working agreements**

(a) the working, use, management and maintenance of any railway;

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[1] Clau[illegible]

[2] [illegible]

[3] [illegible]

[4] [illegible] Rail[illegible] Act, [illegible] and the Railways Clauses Act, 1863 [illegible] 92) s 22

[5] The powers of the Governor General in Council have been delegated to the Railway Board subject to their being exercised in accordance with the general rules and orders on the subject issued by the Government of India, *see* Gazette of India, 1907, Pt I, p 273

[6] For instance of such agreement, *see* Mad R & O , Vol I

(*f*) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council

52 [1] Every railway administration shall, in forms to be prescribed by the Governor General in Council, *prepare, half-yearly or at such* intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct — Returns

*Carriage of Property*

53 [2] (*1*) Every railway administration shall determine the maximum load for every wagon or truck in its possession and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck — Maximum load for wagons

(*2*) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck

(*3*) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck

54 (*1*) Subject to the control of the Governor General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods — Power for railway administrations to impose conditions for working traffic

(*2*) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (*1*) at the station, and shall allow any person to inspect it free of charge at all reasonable times

(*3*) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder

55 [3] (*1*) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods or, if they have been removed from the railway, any other animals or goods of such person then being in *or thereafter coming into* its possession — Lien for rates, terminals and other charges

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[1] *Cf* the Railway Regulation Act 1840 (3 & 4 Vict , c 97), s 3, the Regulation of Railways Act 1868 (31 & 32 Vict , c 119), ss 3 and 4, and the Regulation of Railways Act 1871 (34 & 35 Vict c 78), ss 9 and 10

[2] *Cf* the Railway Regulation Act 1842 (5 & 6 Vict , c 55), s 16

[3] *Cf* the Railways Clauses Act 1845 (8 & 9 Vict , c 20), s 97

(*2*) When any animals or goods have been detained under sub-section (*1*), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, or where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(*3*) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(*4*) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (*1*) or any animals or goods which have remained unsold after a sale under sub-section (*2*), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (*3*).

(*5*) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

Disposal of unclaimed things on a railway.

**56.** (*1*) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

(*2*) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

**57.** Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the

claims of any other person with respect to the animals, goods or sale-proceeds

**58.** (*1*) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof

Requisitions for written accounts of description of goods

(*2*) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (*a*) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or (*b*) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate

(*3*) If an account delivered under sub section (*1*) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods

(*4*) [1]If any difference arises between a railway servant and the owner or person having charge, or the consignee of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section the railway servant may detain and examine the goods

(*5*) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (*1*), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof

(*6*) If it appears that the description of the goods is not different from that stated in an account delivered under sub section (*1*), the railway

[1] *Cf* the Railways Clauses Act 1845 (8 & 9 Vict , c 20), s 101

administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

Dangerous or offensive goods.

**59.** (*1*) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(*2*) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(*3*) Any railway servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in [1][sub-section (*2*)] having to his knowledge been given, may refuse to carry them or may stop their transit.

(*4*) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (*2*) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(*5*) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (*1*), (*3*) and (*4*) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor, [airman][2] or police-officer or [3][a member of the Indian Territorial Force, or of the Auxiliary Force, India,] may take with him upon a railway in the course of his employment or duty as such.

Exhibition to the public of authority for quoted rates.

**60.** [4]At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate books or other documents in which the rate is authorized by the administration or administrations concerned.

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[1] The words and figure "sub-section (*2*)" were substituted for the words and figure "sub-section (*1*)" by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 3.

[2] This word was inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

[3] These words were substituted for the words "a person enrolled as a volunteer under the Indian Volunteers Act, 1869" by s. 2 and 1st Sch. of the Repealing and Amending Act, 1923 (11 of 1923).

[4] *Cf.* the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 33.

**61.**[1] (*1*) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely —

Requisitions on railway administrations for details of gross charges.

(*a*) the carriage of the goods on the railway,
(*b*) terminals,
(*c*) demurrage, and
(*d*)[2] collection, delivery and other expenses,

but without particularizing the several items of which the charge under each head consists

(*2*) The application under sub section (*1*) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application

*Carriage of Passengers*

**62.**[3] The Governor General in Council may require any railway administration to provide and maintain in proper order in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved

Communication between passengers and railway servants in charge of trains.

**63.** Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages as the Governor General in Council, after consultation with the railway administration, may determine

Maximum number of passengers for each compartment

**64** (*1*) On and after the first day of January 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train

Reservation of compartments for females.

(*2*) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet

[1] *Cf* the Regulation of Railways Act, 1868 (31 & 32 Vict , c 119), s 17
[2] *Cf* the Regulation of Railways Act, 1873 (36 & 37 Vict , c 48), s 14
[3] *Cf* the Regulation of Railways Act, 1868 (31 & 32 Vict , c 119), s 22

(*Chapter VI.—Working of Railways.*)

Exhibition of time-tables and tables of fares at stations.

**65.** Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

Supply of tickets on payment of fares.

**66.** (*1*) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(*2*) The matters required by sub-section (*1*) to be specified on a ticket shall be set forth—

(*a*) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

Provision for cin which ts have issued trains not aving room available for additional passengers.

**67.** (*1*) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

(*2*) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(*3*) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

Prohibition against travelling without pass or ticket.

**68.** No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

Exhibition and surrender of passes and tickets.

**69.** Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

**70.** A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Return and season tickets.

**71.** (*1*) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (*1*), clause (*d*), a person suffering from any infectious or contagious disorder.

Power to refuse to carry persons suffering from infectious or contagious disorder.

(*2*) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(*3*) A railway servant giving such permission as is mentioned in sub-section (*2*) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

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## CHAPTER VII.

### Responsibility of Railway Administrations as Carriers.

**72.** (*1*) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 152 and 161 of the Indian Contract Act, 1872.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

(*2*) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(*a*) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(*b*) is otherwise in a [1]form approved by the Governor General in Council.

(*3*) Nothing in the common law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

**73.**[2] (*1*) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any

Further provision with respect to the liability of a railway

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[1] For risk-note forms prescribed under this clause, *see* Genl. R. & O., Vol. III.

[2] *Cf.* the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31)), s. 7.

administration as a carrier of animals.

case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of [1][mules], camels or horned cattle, fifty rupees a head or, in the case of [1][donkeys], sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

**74.** A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

**75.**[2] (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by

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[1] The words "mules" and "donkeys" were added by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 4.

[2] Cf. the Carriers Act, 1830 (11 Geo. 4 & 1 Will. 4, c. 69), s. 1.

examination or otherwise that the parcel actually contains the article declared to be therein

**76** In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused

Burden of proof in suits in respect of loss of animals or goods.

**77** A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway

Notification of claims to refunds of overcharges and to compensation for losses.

**78** Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub section (*1*) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account

Exoneration *from* *respon*sibility in case of goods falsely described.

**79** Where an officer, soldier, [airman][1] or follower while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier, [1][airman] or follower being or travelling as such on duty upon the railway compensation would be payable under Act[2] No XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military [1][or air force] regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise

Settlement of compensation for injuries to *officers* soldiers, airmen and followers on duty

**80** Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the

Suits for compensation for injury to through booked traffic.

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[1] These words were inserted by s 2 and Sch I of the Repealing and Amending Act, 1927 (10 of 1927)

[2] The Indian Fatal Accidents Act, 1855

consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

**81.** [*Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.*] *Rep. by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), section 5.*

Limitation of liability of railway administration in respect of accidents at sea.

**82.**[1] (*1*) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers, and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the [2]Merchant Shipping Act, 1854, and the [2]Merchant Shipping Act Amendment Act, 1862,[2] if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent. 17 & 18 Vict., c. 104. 25 & 26 Vict., c. 63.

(*2*) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (*1*) happened during the carriage by sea shall lie on the railway administration.

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## CHAPTER VIII.

### ACCIDENTS.

Report of railway accidents.

**83.**[3] When any of the following accidents occur in the course of working a railway, namely:—

(*a*) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property; XLV of 1860.

(*b*) any collision between trains of which one is a train carrying passengers;

(*c*) the derailment of any train carrying passengers or of any part of such a train;

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[1] *Cf.* the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 14, and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 12.

[2] *See* now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

[3] *Cf.* the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 6.

(d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property,

(e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India,

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send [1]notice of the accident to the Local Government and to the Inspector appointed[2] for the railway, and the station master nearest to the place at which the accident occurred or, where there is no station master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police station within the local limits of which it occurred, or to such other Magistrate and police officer as the Governor General in Council appoints in this behalf

**84** The Governor General in Council may [3]make rules consistent with this Act and any other enactment for the time being in force for all or any of the following purposes namely — *Power to make rules regarding notices of and inquiries into accidents*

(a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain,

(b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred,

(c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident

**85** Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such [3]form and manner and at such intervals of time as the Governor General in Council directs *Submission of return of accidents*

**86.**[4] Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical *Provision for compulsory medical examination of person injured in*

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accidents occurring in the course of working a railway see Genl R & O Vol III

[4] Cf the Regulation of Railways Act 1868 (31 & 32 Vict c 119), s 26

railway accident. practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

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## CHAPTER IX.

### PENALTIES AND OFFENCES.

*Forfeitures by Railway Companies.*

Penalty for default in compliance with requisition under section 13.

**87.** If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

Penalty for contravention of section 16, 18, 19, 20, 21 or 24.

**88.** If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (*2*), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54 or 65.

**89.** If a railway company fails to comply with the provisions of section 47, sub-section (*6*), section 54, sub-section (*2*), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

**90.** If the railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for failure to comply with decision under section 48.

**91.**[1] If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for delay in submitting returns under section 52 or 85.

**92.** If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

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[1] *Cf.* the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 11.

(*Chapter IX —Penalties and Offences* )

*Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling stock.*

93 If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened

*Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants*

94 [1] If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it, which carries passengers of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition

*Penalty for failure to reserve compartments for females under section 64.*

95 If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs

*Penalty for omitting to give the notices of accidents required by section 83 and under section 84*

96 If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues

*Recovery of penalties*

97 (*1*) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred

(*2*) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council

(*3*) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter

*Alternative or supplementary character of*

98 Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceedings instead of, or in addition to such a suit as is mentioned in the last foregoing section,

[1] Cf the Regulation of Railways Act, 1868 (31 & 32 Vict , c 119), s 22

**105** [1] If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both False returns

*Other Offences*

**106** [2] If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable Giving false account of goods

**107** [2] If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway Unlawfully bringing dangerous or offensive goods upon a railway

**108** [3] If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees Needlessly interfering with means of communication in a train

**109** (*1*) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant he shall be punished with fine which may extend to twenty rupees Entering compartment reserved or already full or resisting entry into a compartment not full

(*2*) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees

**110.** (*1*) If a person, without the consent of his fellow-passengers, if any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees Smoking

(*2*) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability

[1] Cf the Regulation of Railways Act 1871 (34 & 35 Vict , c 78), s 10
[2] Cf the Railway Clauses Act, 1845 (8 & 9 Vict , c 20), ss 99 and 152, respectively
[3] Cf the Regulation of Railways Act, 1868 (31 & 32 Vict , c 119) s 22

notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

any other case, be six rupees, one rupee or three rupees,

(b) in as the passenger is travelling or has travelled or has attempted according to travel class or in a carriage of the highest class or in a carriage of the lowest 1 a carriage of any other class or kind

Provi led that such excess charge shall in no case exceed,—

(a) where the liability to pay it arises under sub section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or

(b) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a [1]fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of, [2][any half] of a return ticket in order to enable any other person to travel therewith, or purchase such half of a return ticket, he shall be punished with fine which mav extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for [3][the journey] authorized by the ticket — Transferring any half of return ticket

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government — Disposal of fines under the two last foregoing sections.

[1] As to procedure for recovery of fines, see ss 386 to 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898)

[2] The words " any half " were substituted for the words " the return half " by s 6 of the Indian Railways Act (1890) Amendment Act 1896 (9 of 1896)

[3] The words " the journey " were substituted for the words " the return journey " by s 6, ibid

*Altering or defacing pass or ticket.*

**116.** If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

*Being or suffering person to travel on railway with infectious or contagious disorder.*

**117.** (*1*) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (*2*), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(*2*) If any such railway servant as is referred to in section 71, sub-section (*2*), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

*Entering carriage in motion, or otherwise improperly travelling on a railway.*

**118.** (*1*) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(*2*) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

*Entering carriage or other place reserved for females.*

**119.** If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

*Drunkenness or nuisance on a railway.*

**120.** If a person in any railway carriage or upon any part of a railway—

(*a*) is in a state of intoxication, or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(*c*) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant

Obstructing railway servant in his duty

**121** [1] If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees

Trespass and refusal to desist from trespass

**122** [1] (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person

Disobedience of omnibus drivers to directions of railway servants

**123** If a driver or conductor of a tramcar omnibus carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police officer, he shall be punished with fine which may extend to twenty rupees

Opening or not properly shutting gates

**124** [2] In either of the following cases namely —

(a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,

(b) if, in the absence of a gate keeper a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees

Cattle trespass

**125** (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle trespass Act, 1871

1871

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the

[1] Cf the Railway Regulation Act, 1840 (3 & 4 Vict , c 97), s 16

[2] Cf the Railway Clauses Act, 1845 (8 & 9 Vict , c 20), s 75

cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

Maliciously wrecking or attempting to wreck a train.

**126.**[1] If a person unlawfully—

(a) puts or throws upon or across any railway any wood, stone or other matter or thing, or

(b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or

(c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or

(d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or

(e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

Maliciously hurting or attempting to hurt persons travelling by railway.

**127.**[2] If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

Endangering safety of persons tra-

**128.**[3] If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person

[1] Cf. the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 35, and the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 32.
[2] Cf. the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 33.
[3] Cf. the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 34, and the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 36.

or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(*2*) The person arrested shall be released on his giving bail or, if his true name and address are ascertained, on his executing a bond without sureties for his appearance before a Magistrate when required.

(*3*) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(*4*) The provisions of Chapters XXXIX and XLII of the [1]Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section. X of 1882.

Magistrates, having jurisdiction under Act.

**133.** No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

**134.** (*1*) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the [2]Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(*2*) Every notification under sub-section (*1*) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

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## CHAPTER X.

### Supplemental Provisions.

Taxation of railways by local authorities.

**135.** Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(*1*) A railway administration shall not be liable to pay any tax in aid of the funds of any [3]local authority unless the Governor General in

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).
[2] For instances of notifications issued under this power, *see* different local Rules and Orders.
[3] For definition of "local authority," *see* sub-section (*5*), *infra*, and the General Clauses Act, 1897 (10 of 1897), s. 3 (*28*).

Council has, by notification in the official Gazette declared the railway administration to be liable to pay the tax [1]

(*2*) While a notification of the Governor General in Council under clause (*1*) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council may having regard to all the circumstances of the case, from time to time determine to be fair and reasonable

(*3*) The Governor General in Council may at any time revoke or vary a notification under clause (*1*) of this section

(*4*) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light or for the scavenging of railway premises or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control

(*5*) "Local authority" in this section means a local authority as defined in the [3]General Clauses Act 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river

Restriction on execution against railway property

**136** [4] (*1*) None of the rolling stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court [5][or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution] without the previous sanction of the Governor General in Council

(*2*) Nothing in sub section (*1*) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order

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[1] (*1*) For notification under this section declaring every railway administration to be liable to pay every tax which it is lawfully required to pay by or on behalf of any local authority in aid of the funds of such authority, *see* Gazette of India, 1907, Pt I p 1075

(*2*) For notification imposing water rates on the East Indian Railway in respect of certain Municipalities *see* Gazette of India 1893 and 1894, Pt I, pp 358 and

[illegible] Railway Companies shall pay certain [illegible] O Vol I

[illegible] ministration of the Burma Railways shall be liable to tax in respect of its property within the Rangoon Municipality, *see* Gazette of India 1906 Pt I p 811

[illegible] and O, Vol III

[illegible] (10 of 1897) s 3 (*28*)

[illegible] 30 & 31 Vict, c 127), s 4

[illegible] Indian Railways Act (1890) Amendment Act

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.

**137.** (*1*) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code. XLV of 1860.

(*2*) In the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of sub-section (*1*), be deemed to include any employer of a railway servant as such.

(*3*) A railway servant shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,

(*b*) in contravention of any direction of the railway administration in this behalf, engage in trade.

(*4*) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (*1*). XLV of 1860.

Procedure for summary delivery to railway administration of property detained by railway servant.

**138.**[1] If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

Mode of signifying communications from the Governor General in Council.

**139.**[2] Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant [3]authorized to act on behalf of the Governor General in Council in respect of the

[1] *Cf.* the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 106.
[2] *Cf.* the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 53.
[3] For notification authorizing the Secretary to the Railway Board to sign these documents, *see* Genl. R. & O., Vol. III.

matters to which the same may relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

**Service of notices on railway administrations.**

**140.** Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager, and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(*a*) by delivering the notice or other document to the Manager or Agent; or

(*b*) by leaving it at his office; or

(*c*) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part
866 III of the [1]Indian Post Office Act, 1866.

**Service of notices by railway administrations.**

**141.**[2] Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

(*a*) by delivering it to the person; or

(*b*) by leaving it at the usual or last known place of abode of the person; or

(*c*) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and regis-
866 tered under Part III of the [1]Indian Post Office Act, 1866.

**Presumption where notice is served by post.**

**142.** Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

**Provisions with respect to rules.**

**143.** (*1*) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (*4*), shall not take effect until it has been published in the Gazette of India.

(*2*) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

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[1] *See* now the Indian Post Office Act, 1898 (6 of 1898).

[2] *Cf.* the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 136, and the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 34.

(*3*) The Governor General in Council may cancel or vary any rule made by him under this Act.

Delegation of powers of Governor General in Council.

**144.** (*1*) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.[1]

(*2*) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (*1*).

Representation of Managers and Agents of Railways in Courts.

**145.** (*1*) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(*2*) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the [2]Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate. X

Power to extend Act to steam-tramways.

**146.** The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.[3]

Power to exempt railways from Act.

**147.** The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.[4]

Matters supplemental to the definitions of "railway" and "railway servant."

**148.** (*1*) For the purposes of section 3, clauses (*5*), (*6*) and (*7*), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and

[1] For notification delegating certain powers and functions vested in the Governor General in Council to Local Governments, *see* Genl. R. & O., Vol. III.

[2] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[3] For notifications extending the Act to certain steam tramways, *see* Gazette of India, 1896, Pt. I, p. 408, and to the Bukhtiarpur-Behar Light Railway, *see* Gazette of India, 1903, Pt. I, p. 797, and *ibid*, 1898, Pt. I, p. 467; *ibid*, 1904, Pt. I, p. 744; and *ibid*, 1910, Pt. I, p. 184.

For notification extending the whole Act except section 135 to the Shahdara (Delhi)-Saharanpur Light Railway, *see* Genl. R. & O., Vol. III.

For notification extending the whole of the Act except section 135 to the Parlakimedi Steam Railway, *see* Mad. R. & O., Vol. I.

[4] For notification exempting the Barsi Light Railway Company from the provisions of s. 85 of the Act, *see* Gazette of India, 1896, Pt. I, p. 303, and for notification exempting the East Indian and Bengal-Nagpur Railways from the provisions of sub-section (*2*) of s. 42 of the Act, *see* Genl. R. & O., Vol. III.

147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (1), (2), and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

Amendment of the Indian Penal Code.

60 **149.** In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.

**150.** For that portion of the preamble to the [1]Sindh-Pishin Railway Act, 1887, which begins with the words "so far as it applies" and ends with the words "in its entirety," the words "should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted.

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## THE FIRST SCHEDULE

ENACTMENTS REPEALED

(*See section 2.*)

| Number and year | Title | Extent of repeal |
|---|---|---|
| | *Acts of the Governor General in Council* | |
| III of 1865 | Carriers Act, 1865 | Section 7 (so far as it relates to railways) and section 10. |
| IV of 1879 | Indian Railways Act, 1879 . . | The whole. |
| IV of 1883 . | Indian Railways Act, 1883 | The whole. |
| XI of 1886 . | Indian Tramways Act, 1886 . | Section 49. |
| [2]* | * * * * * * * | |

[1] Bal. Code.
[2] The entry relating to the Upper Burma Laws Act, 1886 (20 of 1886), was repealed by the Burma Laws Act, 1898 (13 of 1898), see Bur. Code.

## THE FIRST SCHEDULE—*contd.*

| Number and year. | Title. | Extent of repeal. |
| --- | --- | --- |
| *Act of the Lieutenant-Governor of Bengal in Council.* | | |
| [1]II of 1882 . . | Bengal Embankment Act, 1882 . . | Section 16, and in sectio the proviso to the paragraph of that se the words "or unde section last preced and the words "or road" wherever they o |

## THE SECOND SCHEDULE.

### Articles to be Declared and Insured.

(*See section 75.*)

(*a*) gold and silver, coined or uncoined, manufactured or unma factured;
(*b*) plated articles;
(*c*) cloths and tissue and lace of which gold or silver forms p not being the uniform or part of the uniform of an offi soldier, sailor, police-officer or person enrolled as a vol teer under the Indian Volunteers Act, 1869, or of public officer, British or foreign, entitled to wear unifo
(*d*) pearls, precious stones, jewellery and trinkets;
(*e*) watches, clocks and timepieces of any description;
(*f*) Government securities;
(*g*) Government stamps;
(*h*) bills of exchange, hundis, promissory-notes, bank-notes orders or other securities for payment of money;
(*i*) maps, writing and title-deeds;
(*j*) paintings, engravings, lithographs, photographs, carvi sculpture and other works of art;
(*k*) art pottery and all articles made of glass, china or marbl
(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
(*m*) shawls;
(*n*) lace and furs;
(*o*) opium;
(*p*) ivory, ebony, coral and sandalwood;

[1] Ben. Code.

THE SECOND SCHEDULE—*contd*

(*q*) musk, sandalwood oil and other essential oils used in the preparation of *itr* or other perfume,

(*r*) musical and scientific instruments,

(*s*) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule [1] "

(T) Radio (Wireless) Apparatus"

ACT No X of 1890 [2]

[*21st March, 1890* ]

## An Act to amend Act XXV of 1867.

Whereas it is expedient to amend Act XXV of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*), It is hereby enacted as follows —

**1.** [*Repeal of part of preamble to Act XXV of 1867* ] *Rep by the Repealing and Amending Act, 1891* (*XII of 1891*)

**2.** [*Repeal of part of section 1, Act XXV, 1867* ] *Rep by the Repealing and Amending Act, 1891* (*XII of 1891*)

**3.** In section 6 of the said Act, for the words " other Court within the local limits of whose ordinary original civil jurisdiction " the words " other principal Civil Court of original jurisdiction for the place where " shall be substituted Amendment of section 6, Act XXV, 1867

**4.** For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely — Substitution of new Part for Part III, Act XXV, 1867.

" PART III

" Delivery of Books

" 9 Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act Copies of books printed after com-

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see Genl R and O , Vol III
ss Act (1867) Amendment Act,
97)
of India, 1889, Pt V, p 236,
V, p 91, and for Proceedings
1890, Pt VI, pp 1 and 58
thál Parganas by s 3 of the
) as amended by the Sonthál
99) B & O Code, Vol I
Shan States) as being part of
by the Burma Laws Act, 1898
(13 of 1898), Bur Code

It had been previously extended there under s 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Gazette of India, 1892, Pt I, p 94

mencement of Act to be delivered gratis to Government.

shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

(*a*) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,

(*b*) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

"The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

"Nothing in the former part of this section shall apply to—

(*i*) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(*ii*) any periodical work published in conformity with the rules laid down in section 5 of this Act.

Receipt for copies delivered under last foregoing section.

"10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Disposal of copies delivered under section 9.

"11. The copy delivered pursuant to clause (*a*) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

"Any copy or copies delivered pursuant to clause (*b*) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be."

Substitution of new sections for sections 16 and 17 Act XXV, 1867.

**5.** For sections 16 and 17 of the said Act the following shall be substituted, namely:—

Penalty for not delivering books or not supplying printer with maps

"16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

"If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

*Recovery of forfeitures and disposal thereof and of fine*

"17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum or of his successor in office, in the manner authorised by the Code of Criminal Procedure[1] for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

860.

"All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct."

*Amendment of section 18, Act XXV, 1867.*

**6.** In section 18 of the said Act, there shall be substituted for the words and figure "pursuant to section 9" the words, letter and figure "pursuant to clause (*a*) of the first paragraph of section 9," and for the

[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898)

words "copies thereof in manner aforesaid" the words, letter and figure "copy thereof pursuant to clause (*a*) of the first paragraph of section 9".

**7.** [*Repeal of section 22, Act XXV, 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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## ACT No. XI of 1890.[1]

[*21st March, 1890.*]

## An Act for the Prevention of Cruelty to Animals.

Whereas it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows:—

Title, extent, and commencement, and supersession of other enactments.

**1.** (*1*) This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(*2*) This section extends to the whole of British India: and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the [2]whole or any part of the rest of this Act to any such local area as it thinks fit.

(*3*) When any part of this Act has been extended under sub-section (*2*) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government, by a like notification, otherwise directs.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 4; for Report of the Select Committee, *see ibid*, p. 95, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 4, 10 and 62.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code. [It had previously been extended there under Act 14 of 1874, *see* Gazette of India, 1898, Pt. I, p. 94.]

The Act has been declared in force in British Baluchistan, by s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), Bal. Code.

It has been declared in force in the Sonthál Parganas by s. 3 of the Sonthál Parganas Settlement Regulation (3 of 1872), as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

The portions of s. 2 [except sub-section (*2*)], section 5, so much of s. 8 as relates to s. 5 and ss. 9 and 11 of this Act have been declared in force in the Angul District by s. 5 of the Angul Laws Regulation, 1913 (3 of 1913), B. & O. Code.

The Act has been [illegible] application to Bombay by Bombay Acts 13 of 1922 and 9 of 1923.

[2] As to extension of the rest of the Act, *see* different local Rules and Orders.

(4) The Local Government may cancel or vary a notification[1] under sub section (2) or sub-section (3)

Definitions.

**2.** In this Act, unless there is something repugnant in the subject or context,—

(1) "animal" means any domestic or captured animal and

(2) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty

**3.** If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

(a) [2] cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

(b) [3]binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

[4] he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both

Penalty for practising *phúká*.

**4.** If any person performs upon any cow the operation called **phúká**, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both

Penalty for killing animals with unnecessary cruelty anywhere

**5.** If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both

Penalty for being in possession of the skin of a

[5][**5A.** If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred

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[1] For orders cancelling such notifications in—
Bengal, *see* Ben R and O
Bombay, *see* Bom R and O
[2] *Cf* Canadian 43 Vict, c 38, s 2
[3] *Cf* *ibid* and the Cruelty to Animals Act 1849 (12 & 13 Vict, c 92), s 18
[4] *Cf* the Cruelty to Animals Act, 1849 (12 & 13 Vict, c 92) s 18
[5] This section was inserted by s 2 of the Prevention of Cruelty to Animals (Amendment) Act, 1917 (14 of 1917)

goat killed with unnecessary cruelty. rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.]

Presumptions as to possession of the skin of a goat.

[1][**5B.** If any person is charged with the offence of killing a goat contrary to the provisions of section 5, or with an offence punishable under section 5A, and it is proved that such person had in his possession, at the time the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.]

Penalty for employing anywhere animals unfit for labour.

**6.** (*1*) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

(*2*) The Local Government may, by general or special order, appoint places to be[2] infirmaries for the treatment and care of animals in respect of which offences against sub-section (*1*) have been committed.

(*3*) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(*4*) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe.

(*5*) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(*6*) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

Penalty for permitting diseased

**7.** If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with con-

[1] This section was inserted by s. 2 of the Prevention of Cruelty to Animals (Amendment) Act, 1917 (14 of 1917).

[2] For notifications under this sub-section appointing infirmaries, *see* different local Rules and Orders.

tagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees

animals to go at large or to die in public places.

[1][**7A** If a police officer, not below the rank of sub-inspector, has reason to believe that an offence under section 5, in respect of a goat, is being or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be and may seize any such skin and any article or thing used or intended to be used in the commission of such offence ]

Special power of search and seizure in respect of certain offences

**8** (*1*) If a Magistrate of the first class, Sub divisional Magistrate Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any police-officer above the rank of a constable to enter and search the place

Search warrants

(*2*) The provisions of the [2]Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub section (*1*) [3][or under section 7A]

**9** A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence

Limitation for prosecutions

**10** When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper

Destruction of suffering animals

**11** Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class

Saving with respect to religious rites and usages

**12** Notwithstanding anything in section 1, sections 9, 10 and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force

Provision supplementary to section 1 with respect to extent of Act

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[1] This section was inserted by s 3 of the Prevention of Cruelty to Animals (Amendment) Act 1917 (14 of 1917)

[2] *See* now the Code of Criminal Procedure 1898 (Act 5 of 1898)

[3] These words were added by s 4 of the Prevention of Cruelty to Animals (Amendment) Act 1917 (14 of 1917)

## ACT No. XIII OF 1890.[1]

*[28th March, 1890.]*

**An Act[2] * * * * to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting spirit.**

WHEREAS it is expedient [2] * * * * to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit; It VIII is hereby enacted as follows:—

Title. [3]**1.** *(1)* This Act may be called the Excise (Malt Liquors) Act, 1890; *[4]

[4]* * * *

**2—5.** [*Amendment of the Excise Act, 1881 (XXII of 1881).*] *Rep. by the Excise Act, 1896 (XII of 1896).*

**6—7.** [*Amendment of the Bengal Excise Act, 1878.*] *Rep. in Bengal by Ben. Act 5 of 1909, and in Assam by E. B. & A. Act I of 1910, s. 2.*

**8.** [*Saving of legislative authority of Bengal Council.*] *Rep. in Bengal by Ben. Act 5 of 1909, and in Assam by E. B. & A. Act I of 1910, s. 2.*

*Drawback of Excise-duty on Export of Malt Liquor.*

Application of provisions of section 150, Act VIII, 1878, to malt liquor.

**9.** The provisions of section 150 of the Sea Customs Act, 1878, with VIII of respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported and to the drawback of the excise-duty paid on such liquor.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 72; for Debates in Council, *see ibid*, Pt. VI, pp. 31, 68 and 75. Section 9 of the Act has been declared in force in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), B. & O. Code, Vol. I; in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

[2] The words "to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and" in the Title and Preamble were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[3] Sections 1, 6, 7 and 8 were declared in force in the Sonthal Parganas,—Regulation 3 of 1872, s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, B. & O. Code, but sections 6, 7 and 8 having been repealed the Act has no application in the Sonthal Parganas.

[4] The word "and" at the end of sub-section *(1)*, and sub-section *(2)* were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

ACT No XVI OF 1890 [1]

[*11th September, 1890* ]

## An Act to amend the Births, Deaths and Marriages Registration Act, 1886

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886, It is hereby enacted as follows —

**1.** In section 32 of the said Act, for the words "within one year from the date on which this Act comes into force," the words "at any time before the first day of April, 1891," shall be substituted Amendment of section 32, Act VI, 1886

**2.** [*Addition of new section 35A to Act VI, 1886* ] *Rep by s 3 of the Devolution Act, 1920 (38 of 1920)*

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ACT No I OF 1891 [2]

[*30th January, 1891* ]

## An Act to amend the Cattle-trespass Act, 1871, and incorporate therein [3]Act XVIII of 1883

WHEREAS it is expedient to amend the Cattle trespass Act, 1871, and incorporate therein Act XVIII of 1883 (*to amend the Cattle trespass Act, 1871*), It is hereby enacted as follows —

**1.** For section 1 of the Cattle trespass Act, 1871, the following shall be substituted, namely — Substitution of new section for section 1, Act I, 1871

"1 (*1*) This Act may be called the Cattle-trespass Act, 1871, and Title and extent

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[1] Short title, "The Births Deaths and Marriages Registration Act (1886) ... ort Titles Act, 1897 (14 of 1897)
Gazette of India 1890, Pt V, p 127,
VI pp 126 and 129
1886, it is in force in Upper Burma
t 1898 (13 of 1898) Bur Code
he Sonthal Parganas by s 3 of the
of 1872), as amended by the Sonthál
(3 of 1899), B & O Code, Vol I
endment Act, 1891" *See* the Indian

Gazette of India, 1890, Pt V, p 104,
1891, Pt V, p 9, and for Proceedings
1 111, *ibid*, 1891, Pt VI, p 9
ept the Shan States) as being part of
ed in force there by the Burma Laws
Act 1898 (13 of 1898), Bur Code

The Act, as being part of the principal Act 1 of 1871, is in force in British Baluchistan, Bal Code It has also (except ss 10 11 and 13) been declared in force in the Sonthál Parganas, by s 3 of the Sonthál Parganas Settlement Regulation (3 of 1872) as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B & O Code, Vol I

The Act, as being part of the principal Act 1 of 1871 is in force in the Angul District—*see* Angul Laws Regulation, 1913 (3 of 1913), B & O Code, Vol I

[3] Rep by s 10 of this Act

(2) It extends to the whole of British India except the Presidency-towns and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation.

(3) The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under sub-section (2)."

Additions to section 3, Act I, 1871.

**2.** To section 3 of the said Act the following shall be added, namely:—

", and

"'Local authority' means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

"'Local fund' means any fund under the control or management of a local authority."

Amendment of section 10, Act I, 1871.

**3.** In section 10 of the said Act, for the words "take them or cause them to be taken without unnecessary delay" the words "send them or cause them to be sent within twenty-four hours" shall be substituted.

Amendment of section 11, Act I, 1871.

**4.** In section 11 of the said Act, for the words "take them without unnecessary delay" the words "send them or cause them to be sent within twenty-four hours" shall be substituted.

**5.** [*Additions to section 12, Act I, 1871.*] *Rep. by the Cattle-trespass (Amendment) Act, 1921 (17 of 1921).*

Substitution of new Chapter for Chapter V, Act I, 1871.

**6.** For Chapter V of the said Act the following shall be substituted, namely:—

"CHAPTER V.

"COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to make complaints.

"20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Procedure on complaint.

"21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

"If the Magistrate, on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against and make an enquiry into the case.

Compensation for illegal

"22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or

detention, reasonable compensation not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle (seizure or detention.)

and, if the cattle have not been released the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle (Release of cattle)

"23 The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate" (Recovery of compensation.)

**7** In section 25 of the said Act the words "under the next following section or" shall be inserted between the words "Any fine imposed" and the words "for the offence of mischief" (Amendment of section 25 Act I 1871)

**8** To section 26 of the said Act the following shall be added, namely — (Addition to section 26 Act I 1871)

"The Local Government, by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees' or as if there were both such reference and such substitution

'The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under this section"

**9** After Chapter VII the following shall be added, namely — (Addition of new Chapter after Chapter VII Act I 1871)

"CHAPTER VIII

"SUPPLEMENTAL

"31 The Local Government may, from time to time, by notification in the official Gazette,— (Power for Local Government to transfer certain functions to local authority and direct credit of surplus receipts to local fund.)

(a) transfer to any local authority, within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Local Government or the Magistrate of the District under this Act within the local area subject to the jurisdiction of the local authority, or

(b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to

the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may, from time to time, by notification in the official Gazette, cancel or vary any notification under this section."

Repeal of Act XVIII, 1883.

**10.** Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*) is hereby repealed: I of 1871.

Provided that orders which have been made and notified under that Act by the Local Government and are in force immediately before the commencement of this Act shall be deemed to have been made under the Cattle-trespass Act, 1871, as amended by this Act.

**11.** [*Amendment of section 6 (3), Act XIII, 1889.*] *Rep. by the Cantonments Act, 1910 (15 of 1910).*

Saving of references.

**12.** Any enactment or document referring to the Cattle-trespass Act, 1871, or to Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), shall be construed to refer to the Cattle-trespass Act, 1871, as amended by this Act. I of 1871.

Commencement.

**13.** This Act shall come into force on the first day of April, 1891.

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## ACT No. II of 1891.[1]

[*6th February, 1891.*]

## An Act to amend the Indian Christian Marriage Act, 1872.

WHEREAS it is expedient to amend the Indian Christian Marriage Act, 1872; It is hereby enacted as follows:— XV of 1872.

Substitution of new section for section 6, Act XV, 1872.

**1.** (*1*) For section 6 of the Indian Christian Marriage Act, 1872, the following shall be substituted, namely:— XV of 1872.

Grant and revocation of licenses to

"6. The Local Government, so far as regards the territories under its administration, and the Governor General in Council, so far as regards

[1] Short title, "The Indian Christian Marriage Act (1872) Amendment Act, 1891." *See* the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 110; for Report of the Select Committee, *see ibid*, 1891, Pt. V, p. 17, and for Proceedings in Council, *see ibid*, 1890, Pt. VI, pp. 113 and 144; *ibid*, 1891, Pt. VI, pp. 5 and 15.

This Act is in force in Upper Burma (except the Shan States) as being part of the principal Act, 15 of 1872, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act, as being part of the principal Act 15 of 1872, is in force in British Baluchistan, Bal. Code. It has also been declared in force in the Sonthál Parganas by s. 3 of the Sonthál Parganas Settlement Regulation (3 of 1872), as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

any Native State may, by notification in the local official Gazette or in the Gazette of India as the case may be grant licenses to Ministers of Religion to solemnize marriages within such territories and State, respectively, and may, by a like notification, revoke such licenses " solemnize marriages.

(2) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) shall be
65 deemed, if in force on the day on which the Indian Marriage Act, 1865, came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the day on which the Indian Christian Marriage Act, 1872, came into force, to have been, since that Act came into force, a license granted under that Act

(3) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*), the Indian Marriage Act, 1865, or the Indian Christian Marriage Act, 1872, shall, if in force immediately before the commencement of this Act, be deemed to have been granted under the Indian Christian
872 Marriage Act, 1872, as amended by sub section (*1*) of this section

(4) [*Repeal of Act XV of 1884* ] *Rep by the Repealing and Amending Act, 1891 (XII of 1891)*

**2** To the proviso to section 10 of the said Act the following shall be added, namely — Addition to proviso to section 10 Act XV, 1872

" or

(3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites ceremonies and customs of the Church of Scotland "

**3** In section 11 of the said Act after the words " other than a church " the words " where worship is generally held according to the forms of the Church of England " shall be added and between the word " no " and the word " church " in the expression " unless there is no church " the word " such " shall be inserted Amendment of section 11, Act XV, 18[illegible]

**4** (*1*) For section 62 of the said Act the following shall be substituted, namely — Sub[illegible] of new section for section 62, Act XV [illegible]

" 62 (*1*) Every person licensed under section 9 shall keep in [illegible] English or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized and in such form as the Local Government by which he was licensed may from time to [illegible]

therefrom with Registrar-General.

prescribe, a register-book of all marriages solemnized, under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.

" (*2*) Where the person keeping the register-book was licensed as regards a Native State by the Governor General in Council, references in sub-section (*1*) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar-General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (*2*), of the Births, Deaths and Marriages Registration Act, 1886." VI of 1886.

[1]* * * * * * *

Substitution of new section for section 66, Act, XV, 1872.

**5.** For section 66 of the said Act the following shall be substituted, namely:—

False oath, declaration, notice or certificate for procuring marriage.

" 66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

(*a*) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(*b*) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine." XLV of 1860.

Substitution of new section for section 68, Act XV, 1872.

**6.** For section 68 of the said Act the following shall be substituted, namely:—

Solemnizing marriage without due authority.

" 68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the district in which the ceremony takes

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[1] Sub-section (*2*) of s. 4, which repeals cl. (c) of s. 30 of the Births, Deaths and Marriages Registration Act, 1886, was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years

or, if the offender is an European or American, with penal servitude according to the provisions of Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine "

**7.** To section 69 of the said Act the following shall be added, namely — Addition to section 69 Act XV, 1872

" Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland "

**8** (*1*) For clause (*2*) of section 71 of the said Act the following shall be substituted, namely — Amendment of sections 71 and 72, Act XV, 1872

" (*2*) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage "

(*2*) In section 72 of the said Act, for the words " three months " the words " two months " shall be substituted

**9** To section 74 of the said Act the following shall be added, namely — Addition to section 74, Act XV, 1872

" Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees "

**10** [*Amendment of section 86, Act XV, 1872* ] *Rep by the Devolution Act, 1920 (38 of 1920)*

therefrom with Registrar-General.

prescribe, a register-book of all marriages solemnized, under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.

"(2) Where the person keeping the register-book was licensed as regards a Native State by the Governor General in Council, references in sub-section (*1*) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar-General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (*2*), of the Births, Deaths and Marriages Registration Act, 1886." VI of 1886.

[1]* * * * * * *

Substitution of new section for section 66, Act, XV, 1872.

**5.** For section 66 of the said Act the following shall be substituted, namely:—

False oath, declaration, notice or certificate for procuring marriage.

"66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

(*a*) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(*b*) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine." XLV of 1860.

Substitution of new section for section 68, Act XV, 1872.

**6.** For section 68 of the said Act the following shall be substituted, namely:—

Solemnizing marriage without due authority.

"68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the district in which the ceremony takes

[1] Sub-section (*2*) of s. 4, which repeals cl. (c) of s. 30 of the Births, Deaths and Marriages Registration Act, 1886, was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years

or, if the offender is an European or American, with penal servitude according to the provisions of Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine "

**7** To section 69 of the said Act the following shall be added, namely — Addition to section 69 Act XV, 1872

" Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland "

**8** (*1*) For clause (*2*) of section 71 of the said Act the following shall be substituted, namely — Amendment of sections 71 and 72 Act XV, 1872

" (*2*) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage "

(*2*) In section 72 of the said Act, for the words " three months " the words " two months " shall be substituted

**9** To section 74 of the said Act the following shall be added namely — Addition to section 74 Act XV, 1872

" Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees "

**10** [*Amendment of section 86, Act XV, 1872* ] *Rep by the Devolution Act, 1920* (*38 of 1920*)

ACT No. VII OF 1891.[1]

[*6th March, 1891.*]

## An Act to amend Act X of 1841.

WHEREAS it is expedient to amend the Act of the Governor General in Council, No. X of 1841 (*an Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the [2]Statute 3rd and 4th Vict., c. 56*); It is hereby enacted as follows:—

1. [*Repeal of a word in section 2, Act X of 1841.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Amendment of section 3, Act X of 1841.

2. For that portion of section 3 of the said Act, beginning with the words "the persons now authorised" and ending with the words "such other or different persons", the words "such persons" shall be substituted.

Substitution of new sections for sections 8 to 12, Act X of 1841.

3. For sections 8 to 12, both inclusive, of the said Act, the following shall be substituted, namely:—

Certificate of surveying officer.

"8. The certificate of the surveying officer shall be in the form in the schedule to this Act or in such other form as the Governor General in Council may from time to time prescribe; and such certificate shall be delivered to the registering officer before registry.

Measurement of tonnage for purpose of registry.

"9. Subject to the provisions of section 70 of Act I of 1859 (*an Act for the amendment of the law relating to Merchant Seamen*) as amended by section 9 of the Indian Merchant Seamen's Act, 1876, the tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules and orders for the time being in force in and under the [3]Merchant Shipping Act, 1854, as amended by subsequent Acts [including the [3]Merchant Shipping (Tonnage) Act, 1889], as apply to measurement of tonnage for the purpose of registry.

XIII of 187[6]. 17 & 18 Vic[t.], c. 104. 52 & 53 Vict., c. 43

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[1] Short title, "The Indian Registration of Ships Act (1841) Amendment Act, 1891." *See* the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 248; for Report of the Select Committee, *see ibid*, 1891, Pt. V, p. 39, and for Proceedings in Council, *see ibid*, 1891, Pt. VI, pp. 2, 26, 30 and 33.

[2] Rep. as to all H. M.'s dominions by S. L. R. (No. 2) of 1890.

[3] *See* now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stat., Vol. II.

*Measurement of tonnage for purpose other than registry*

"10 Subject to the provisions referred to in the last foregoing section, the tonnage of a ship or vessel requiring to be measured for any purpose other than registry shall be measured and ascertained according to such of the rules and orders for the time being in force in and under
104 the [1]Merchant Shipping Act, 1854, amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry

*Substitution of Governor General in Council for Board of Trade*

"11 The rules and orders referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule or order referring to this Act, be read and construed as if the Governor General in Council were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the [1]Merchant Shipping Act, 1872
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*Marking of register tonnage on ship or vessel*

"12 The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules and orders referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered"

*Amendment of section 14, Act X of 1841*

4 In section 14 of the said Act, to the word "tonnage", wherever it occurs, the word "register" shall be prefixed, and for the words "rules herein prescribed" the words "said rules and orders" shall be substituted

*Amendment of section 15, Act X of 1841*

5. In section 15 of the said Act [2]* * * * for the words and figures "Act No II of 1839" the words "the law for the time being in force for the recovery of fines imposed by Criminal Courts" shall be substituted

*Amendment of section 17 Act X of 1841*

6. (1) [3]* * * *

(2) To [4][section 17 of the said Act] the words "recoverable as aforesaid" shall be added

*Amendment of section 23, Act X of 1841*

7. In section 23 of the said Act, after the words "ten thousand rupees" the words "recoverable as aforesaid" shall be inserted

*Amendment of section 24, Act X of 1841*

8. In section 24 of the said Act, [5]* * * * for the words "for the Governor of Fort William in Bengal or for the Governor in Council of any presidency" and for the words "for the Governor of Fort William in Bengal or the Governor in Council of any presidency" the words "for a Local Government" shall be substituted

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[1] *See* now the Merchant Shipping Act, 1894 (57 & 58 Vict, c 60), Coll Stat, Vol II

[2] The words "the words 'or the East India Company' are hereby repealed, and" were repealed by the Repealing and Amending Act 1891 (12 of 1891)

[3] Sub-section (1) was repealed by the Repealing and Amending Act, 1891 (12 of 1891)

[4] These words were substituted for the words "the same section" by the Amending Act 1891 (12 of 1891)

[5] The words "the words 'issued under the Company's seal and' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891)

Addition to Act X of 1841.

9. After section 26 of the said Act, and before the Proclamation, the following shall be inserted, namely:—

Definition of "Local Government."

"27. The expressions 'Local Government,' 'Local Governments of India' and 'Government of the Presidency,' as used in this Act, shall be deemed to include, and to have always included, every person who is a 'Local Government' as defined in section 2, clause (10), of the [1]General Clauses Act, 1868." I of 1868.

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"THE SCHEDULE.

(*See section 8.*)

ACT X, 1841.

*Certificate of Survey.*

| Name of Ship. | Port of intended Registry. | Official number, if there has been any former Registry. |
|---|---|---|
| | | |

| Whether a Sailing or Steam Ship; and, if a Steam Ship, how propelled. | Where Built. | When Built. | Name and Address of Builders. |
|---|---|---|---|
| | | | |

| | | Feet. | Tenths. |
|---|---|---|---|
| Number of Decks .<br>Number of Masts .<br>Rigged . . .<br>Stern . . .<br>Build . . .<br>Galleries . .<br>Head . . .<br>Framework . . | Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern post . . . . . . .<br>Main breadth to outside of plank . .<br>Depth in hold from tonnage deck to ceiling at midships . . . . . . .<br>Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards . . . . . . .<br>Length of engine room, if any . . . | | |

PARTICULARS OF ENGINES (IF ANY).

| No. of Engines. | Description. | Whether British or Foreign made. | When made. | Name and Address of Makers. | Diameter of Cylinders. | Length of Stroke. | No. of Horses' Power (combined). |
|---|---|---|---|---|---|---|---|
| | | | Engines. | | | | |
| | | | Boilers. | | | | |

[1] *See* now the General Clauses Act, 1897 (10 of 1897).

PARTICULARS OF TONNAGE

| Gross Tonnage | No of Tons | Deduction allowed | No of Tons |
|---|---|---|---|
| Under Tonnage Deck<br>Closed in spaces above the Tonnage Deck, if any<br>Space or spaces between Decks .<br>Poop<br>Forecastle<br>Round House<br>Other closed in spaces, if any as follows | | On account of space required for propelling power<br>On account of spaces occupied by Seamen or Apprentices and appropriated to their use and kept free from goods or stores of every kind not being the personal property of the Crew<br>These spaces are the following namely :— | |
| | | | |
| | | | |
| Gross Tonnage<br>Deduction, as *per contra* | | Cubic metres | |
| Registered Tonnage | | TOTAL | |

I, the undersigned————————————————
having surveyed the above named Ship hereby certify that the above particulars are true

Dated at————————
this——————day of
————18————

————————————————

*Surveyor* "

ACT No IX OF 1891 [1]

*[13th March, 1891 ]*

## An Act to amend the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878

WHEREAS it is expedient to amend the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878, It is hereby enacted as follows —

**1.** [*Repeal of part of section 1, Act IV, 1889* ] *Rep by the Repealing and Amending Act, 1914 (10 of 1914)*

[1] Short title, "Th … Sea Customs Acts Amendment Act 1891" Se … 7 (XIV of 1897)
For Statement of … India 1891 Pt V, p 4, for Report of the Sel … V, p 29, and for Proceedings in Council, see …
This Act is in forc … n States) as being part of the principal Acts (4 … force there by the Burma Laws Act, 1898 (13 o …

# ACT No. XII OF 1891.[1]

[*21st March, 1891.*]

## An Act [2]* * * to amend certain *[2] Enactments.

* * * * * * [3]

[3] WHEREAS it is [3] expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows:—

Title and extent.

1. (*1*) *This Act may be called the* *[4] *Amending Act, 1891.*

(*2*) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; [5]*

[5]* * * *

Enactments in schedule amended.

2. (*1*) [*Enactments repealed.*] *Rep., Act 1 of 1903.*

(*2*) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the [6]Lieutenant-Governor of Bengal in Council or the [6]Lieutenant-Governor of the North-Western Provinces and Oudh in Council.

[7]* * * * * * * *

3. [*Savings.*] *Rep. by the Repealing and Amending Act, 1903* (*1 of 1903*).

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## THE FIRST SCHEDULE.

### ENACTMENTS REPEALED.

(*Rep., Act 1 of 1903.*)

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 214; for Report of the Select Committee, *see* ibid, 1891, p. 65 and for Proceedings in Council, *see ibid*, 1890, Pt. VI, p. 142, and *ibid*, 1891, p. 111.

The Act has been declared in force in the Sonthál Parganas by s. 3 of the Sonthál Parganas Settlement Regulation (3 of 1872) as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

The Act so far as it may be applicable has been extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895,—*see* Shan States Manual.

[2] In the title the words "to repeal certain Obsolete Enactments and" and the word "other" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4, 3rd Schedule.

[3] The portion of the Preamble relating to repeals and the words "and" and "also" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

[4] The words "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

[5] The words "and" at the end of sub-section (*2*), and sub-section (*3*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[6] For the Lieutenant-Governor of Bengal and the Lieutenant-Governor of the North-Western Provinces and Oudh, now read, respectively, the Governor of Bengal and the Governor of the United Provinces of Agra and Oudh. The local Acts of the provinces mentioned in this sub-section are now impressed as passed by the respective local Legislative Councils.

[7] Sub-section (*3*) was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

## ACT No. XII OF 1891.[1]

*[21st March, 1891.]*

An Act [2]* * * to amend certain * [2] Enactments.

* * * * * * [3]

[3] WHEREAS it is [3] expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows:—

Title and extent.

**1.** (*1*) This Act may be called the * [4] Amending Act, 1891.

(*2*) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; [5]*

[5]* * * *

Enactments in schedule amended.

**2.** (*1*) [*Enactments repealed.*] *Rep., Act 1 of 1903.*

(*2*) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the [6]Lieutenant-Governor of Bengal in Council or the [6]Lieutenant-Governor of the North-Western Provinces and Oudh in Council.

[7]* * * * * * * *

**3.** [*Savings.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

### THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*Rep., Act 1 of 1903.*)

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 214; for Report of the Select Committee, *see* ibid, 1891, p. 65 and for Proceedings in Council, *see ibid*, 1890, Pt. VI, p. 142, and *ibid*, 1891, p. 111.

The Act has been declared in force in the Sonthál Parganas by s. 3 of the Sonthál Parganas Settlement Regulation (3 of 1872) as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

The Act so far as it may be applicable has been extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895,—*see* Shan States Manual.

[2] In the title the words "to repeal certain Obsolete Enactments and" and the word "other" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4, 3rd Schedule.

[3] The portion of the Preamble relating to repeals and the words "and" and "also" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

[4] The words "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

[5] The words "and" at the end of sub-section (*2*), and sub-section (*3*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[6] For the Lieutenant-Governor of Bengal and the Lieutenant-Governor of the North-Western Provinces and Oudh, now read, respectively, the Governor of Bengal and the Governor of the United Provinces of Agra and Oudh. The local Acts of the provinces mentioned in this sub-section are now impressed as passed by the respective local Legislative Councils.

[7] Sub-section (*3*) was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

## THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

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*Part I.—Acts of the Governor General in Council.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment |
| 1835 | XIX | Assistant to Agent for Sardars, Dekkhan | *Add the following section*— 2. The provisions of the Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act (Procedure in appeals to Governor of Bombay in Council) |
| 1839 | VII | Tahsildars, Madras . | In section 6, *for* the three last preceding sections *read* sections 3 and 5. |
| 1846 | I | Pleaders . . . | In section 7, *for* the sections of Regulations *read* the section of the Regulation. |
| 1850 | XIX | Binding Apprentices . | In section 11, *for* section VIII *read* section 9 |
| | | | In section 20, *for* and, *where the word occurs before* administrators, *read* or. |
| 1851 | XII | Land-revenue, Madras Town | In ... civil jurisdiction of the High Court of Judicature at Madras. |
| 1* | * | * * * * | * * * |
| 1856 | XX | Chaukidars . . . | In section 38 (as amended by Act XXII of 1871, section 3), *for* Commissioners of Circuit *read* Commissioner. |
| 2* | * | * * * * | * * * |

...ons Act,

. s. 3 and

THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment. |
| 1858 | XXXVII | Nawab of the Carnatic . | *For the list of names in Schedule A, read the following :—*<br>1. Her Highness Nawab Khair-un-Nissa Begam.<br>2. Nawab Ahmad-un-Nissa Begam.<br>3. Nawab Qadiria Begam.<br>4. Rahim-un-Nissa Begam.<br>5 Ammak-ul-Ali Aliyat-un-Nissa Begam |
| [1]* | * | * * * | * * * |
| [2]* | * | * * * | * * * |
| 1860 | XLV | Indian Penal Code . | In section 307, Illustration (c), *after* of *insert* the first paragraph of. |
| 1863 | XX | Religious Endowments . | In section 3, *for* section I *read* the preamble to this Act. |
| [3]* | * | * * * | * * * |
| [4]* | * | * * * | * * * |
| 1867 | III | Gambling . . . | In the preamble, *after* Fort William *insert* and.<br>In section 2, *for* Sections 13, 17 and 18 *read* Sections 13 and 17. |

[1] The entry relating to Act I of 1859 (Merchant Seamen) was repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

[2] The entry relating to the Boundary-marks (Madras) Act, 1860 (28 of 1860), was repealed by the Coorg Land and Revenue Regulation, 1899 (1 of 1899), Coorg Code.

[3] The entry relating to Act 3 of 1864 (Foreigners) was repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1920 (31 of 1920).

[4] The entry relating to Act 10 of 1865 (Indian Succession) was repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

## THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment. |
| [1]1867 | XXIII | Murderous Outrages, Punjab. | In section 10, *for* the Punjab Chief Court Act, 1866, *read* in any other enactment for the time being in force. |
| " | XXV | Printing Presses and Books. | In section 3, *before* of the publisher *insert* the name |
| 1868 | V | Commissioner in Sindh . | In the schedule, *for* Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) *read* The Foreign Jurisdiction and Extradition Act, 1879 , *and for* Act VII of 1865 (to give effect to rules for the management and preservation of Government forests) *read* The Indian Forest Act, 1878. |
| [2]* | * | * * * | * * * |
| [3]* | * | * * * | * * * |
| 1870 | VII | Court-fees Act, 1870 . | *For* section 31 *read the following* —<br><br>34. (*1*) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons. [Sale of Stamps]<br><br>(*2* |

[1] This entry is repealed, so far as Act 12 of 1891 affects British Baluchistan and the North-West Frontier Province, by s. 16 of the Frontier Murderous Outrages Regulation, 1901 (4 of 1901),

[pealed by the Indian Army Act, 1911 (8 of 1911).]

[3] The entry relating to Act 20 of 1869 was repealed by the Auxiliary Force Act, 1920 (49 of 1920).

## THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment. |
| 1858 | XXXVII | Nawab of the Carnatic . | *For the list of names in Schedule A, read the following* :—<br>1. Her Highness Nawab Khair-un-Nissa Begam.<br>2. Nawab Ahmad-un-Nissa Begam.<br>3. Nawab Qadiria Begam.<br>4. Rahim-un-Nissa Begam.<br>5 Ammak-ul-Ali Aliyat-un-Nissa Begam |
| [1]* | * | * * * | * * * |
| [2]* | * | * * * | * * * |
| 1860 | XLV | Indian Penal Code . | In *section* 307, Illustration (*c*), *after* of *insert* the first paragraph of. |
| 1863 | XX | Religious Endowments . | In section 3, *for* section I *read* the preamble to this Act. |
| [3]* | * | * * * | * * * |
| [4]* | * | * * * | * * * |
| 1867 | III | Gambling . . . | In the preamble, *after* Fort William *insert* and.<br>In section 2, *for* Sections 13, 17 and 18 *read* Sections 13 and 17. |

[1] The entry relating to Act I of 1859 (Merchant Seamen) was repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

[2] The entry relating to the Boundary-marks (Madras) Act, 1860 (28 of 1860), was repealed by the Coorg Land and Revenue Regulation, 1899 (1 of 1899), Coorg Code.

[3] The entry relating to Act 3 of 1864 (Foreigners) was repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1920 (31 of 1920).

[4] The entry relating to Act 10 of 1865 (Indian Succession) was repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

## THE SECOND SCHEDULE—*contd.*

### *Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment |
| [1]1867 | XXIII | Murderous Outrages, Punjab. | In section 10, *for* the Punjab Chief Court Act, 1866, *read* in any other enactment for the time being in force. |
| " | XXV | Printing Presses and Books | In section 3, *before* of the publisher *insert* the name. |
| 1868 | V | Commissioner in Sindh . | In the schedule, *for* Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) *read* The Foreign Jurisdiction and Extradition Act, 1879 , *and for* Act VII of 1865 (to give effect to rules for the management and preservation of Government forests) *read* The Indian Forest Act, 1878. |
| [2]* | * | * * * | * * * |
| [3]* | * | * * * | * * * |
| 1870 | VII | Court-fees Act, 1870 . | *For* section 34 *read the following* :—<br>34. (*1*) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons. (Sale of Stamps)<br>(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law. |

[1] This entry is repealed, so far as Act 12 of 1891 affects British Baluchistan and the North-West Frontier Province, by s. 16 of the Frontier Murderous Outrages Regulation, 1901 (4 of 1901),—*see* Gazette of India, 1901, Pt I, p. 853.

of 1920).

THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | [illegible] | Amendment. |
| [illegible] | XII[illegible] | [illegible] | [illegible] ... shall be punished with imprisonment ... which may extend ... or with fine which may extend to two hundred rupees, or with both. In Schedule I, Act [illegible], for Act No. XIV of 1870 [illegible] for the [illegible] of cattle, [illegible] read the Specific Relief Act, 1877, section 12. In Schedule II, Act [illegible], for Bombay Act [illegible] of 1866 [illegible] the Mamlatdars' Courts Act, 1876. |
| " | XXIV[illegible] | [illegible] | In section 12, [illegible] read [illegible]. |
| * | * | * * | * * * |
| [illegible] | XXVII | [illegible] | In section 15, for [illegible] sections 124A and 225A [illegible] 124A, 225A and 225B. |
| * | * | * * | * * * |
| 1872 | IV | [illegible] Laws Act, 1872 | In section [illegible] (as amended by Act XV of 1873, section 3), for sections forty-three to forty-nine read sections 43 to 48. |
| " | V | [illegible] | In section 2 (added by Act XX of 1872), for the Administrator General's Act, 1867, read the Administrator General's Act, 1874. |
| " | IX | Indian Contract Act, 1872 | In section 25, clause (1), for assurances read documents. In section 53, first paragraph, for one read one or more. |

[1] The entry relating to the Prisons Act, 1870 (26 of 1870), was repealed by the Prisons Act, 1894 (9 of 1894).

[2] The entry relating to the Prisoners' Act, 1871 (5 of 1871), was repealed by the Prisoners Act, 1900 (3 of 1900).

[3] The entry in the fourth column relating to s. 12 was repealed by the Punjab Pre-emption Act, 1905 (Punj. Act 2 of 1905), P. and N.-W. F. Code.

## THE SECOND SCHEDULE—*contd*

*Part I —Acts of the Governor General in Council*—contd

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject or title | Amendment |
| 1872 | IX—*contd* | Indian Contract Act 1872 —*contd* | In section 63, Illustration (*e*), *for* compensation *read* composition |
| " | XV | Indian Christian Marriage Act, 1872 | In section 4, *after* is *insert* or are<br>In Schedule III, *for* (See section 28) *read* (See sections 28 and 31) |
| 1873 | VIII | Northern India Canal and Drainage Act, 1873 | In section 7o, clause (3) *after* whom *insert* and |
| [1]* | * | * * * | * * * |
| * | * | * * * | * * * |
| 1874 | XIV | Scheduled Districts Act 1874 | *After* section 5 *insert the following section* —<br>5A In declaring an enactment in force in a scheduled district or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the *Local Government*, with the previous sanction of the Governor General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit<br>Modification of enactments in their application to scheduled districts<br>In the first schedule, Part I, No II, *for* (7) The Konda Mutta of Belgam *read* (7) The Konda Muttá of Merangi<br>In the first schedule Part III, No I, *for* Divisions *read* Districts |
| " | XV | Laws Local Extent Act 1874 | In the second schedule, Part (*a*) in the |

[1] The entry relating to Act 2 of 1874 was repealed by the Administrator General's Act, 1913 (3 of 1913)

[2] The entry relating to Act 9 of 1874 was repealed by the Repealing and Amending Act, 1920 (31 of 1920).

THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment. |
| 1876 | X | Bombay Revenue Jurisdiction Act, 1876. | In section I, clause (*b*), *for* Act XV of 1871 *read* Act XXI of 1881. |
| [1]* | * | * * | * * * |
| [2]* | * | * * | * * * |
| 1876 | XVIII | Oudh Laws Act, 1876 . | In section 39, clause (*f*), *for* Oudh Revenue Act *read* Oudh Land-revenue Act, 1876. |
| [3]* | * | * * | * * * |
| 1878 | I | Opium Act, 1878 . . | In section 24, *for* Deputy Collector *read* Deputy Commissioner. |
| [4]* | | * * | * * * |
| 1878 | VIII | Sea-customs Act, 1878 . | In section 2, *for* the first schedule *read* Part I of the schedule.<br>In the schedule appended to section 167—<br>in the first column of the entry numbered 3, *for* No. 2 *read* No. 4, *and for* landing or shipment *read* shipment and landing; *and*<br>in the second column of the entry numbered 59, *for* 141 *read* 142. |
| „ | XVII | Northern India Ferries Act, 1878. | In section 17, clause (*c*), *for* first *read* in the first instance, *and for the words and figures from* and then *to the end of the clause read* and shall then, at the discretion of the Local Government—<br>(*i*) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or<br>(*ii*) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878,<br>as the case may be; and. |

[1] The entry relating to Act 13 of 1876 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923).
[2] The entry relating to the Oudh Land-revenue Act, 1876 (17 of 1876), was repealed by s. 4 of the Repealing and Amending Act, 1903 (1 of 1903).
[3] The entry relating to Act 3 of 1877 was repealed by the Registration Act, 1908 (16 of 1908).
[4] The entry relating to Act 7 of 1878 (Indian Forest Act, 1878) was repealed by s. 86 and Sch. of the Indian Forest Act, 1927 (16 of 1927).

THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment. |
| [1]* | * | * * | * * * |
| 1879 | XVI | Transport of Salt Act, 1879 | In section 3, clause (*a*), *for* section twenty-eight or section thirty one of the Act of the Governor of Bombay in Council No VII of 1873, or by a rawana granted under Madras Regulation I of 1805, section eleven, clause third, *read* Chapter V of the Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the time being in force in the territories administered by the Governor of Fort St George in Council or the Governor of Bombay in Council, as the case may be. |
| [2]* | * | * * | * * * |
| [3]* | * | * * | * * * |
| [4]* | * | * * | * * * |
| [5]* | * | * * | * * * |
| 1881 | XVIII | Central Provinces Land revenue Act, 1881 | In section 33, *for* the first five grades *read* the last five classes, *for* the Central Provinces Courts Act, 1865, *read* the Central Provinces Civil Courts Act, 1885, *and for* sections twelve, nineteen and twenty *read* section 7.<br>In section 34, *for* the Central Provinces Courts Act, 1865, sections twelve, nineteen and twenty, *read* the Central Provinces Civil Courts Act, 1885, section 16 and section 17, sub section (*1*), and the powers of a Court of a Commissioner described in the same Act, section 15, sub section (*1*). |

[1] The entry relating to the Stamp Act, 1879 (1 of 1879), was repealed by the Indian Stamp Act, 1899 (2 of 1899).

[2] The entry relating to Act 21 of 1879 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

[3] The entry relating to Act 7 of 1880 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923)

[4] The entry relating to the Probate and Administration Act, 1881 (5 of 1881), was repealed by s. 2 and Sch. of the Repealing Act, 1927 (12 of 1927).

[5] The entry relating to Act 12 of 1881 was repealed by the Repealing and Amending Act, 1903 (1 of 1903).

THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council*—contd.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject or title. | Amendment. |
| 1881 | XVIII—*contd.* | Central Provinces Land-revenue Act, 1881—*contd.* | In section 35, *for* the first four grades *read* the last four classes. |
| [1]* | * | * * | * * * |
| [2]* | * | * * | * * * |
| 1882 | V | Indian Easements Act, 1882. | In section 14, *for* right *read* a right. |
| [3]* | * | * * | * * * |
| [4]* | * | * * | * * * |
| [5]* | * | * * | * * * |
| [6]* | * | * * | * * * |
| [7]* | * | * * | * * * |
| [8]* | * | * * | * * * |
| 1883 | XX | Punjab District Boards Act, 1883. | In sections 28 and 29, *for* Government Civil Pension and Leave Code, *wherever those words occur, read* Civil Service Regulations. |
| [9]* | * | * * | * * * |

[1] The entry relating to the Lower Burma Forest Act, 1881 (19 of 1881), was repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code. See also Burma Forest Act, 1902 (Bur. Act 4 of 1902).

[2] The entry relating to the Police Act, 1881 (22 of 1881), was repealed by the [illegible] Act, 1896 (12 of 1896), Bur. Code, etc.

[3] The entry relating to the Indian Companies Act, 1882 (6 of 1882), was repealed by the Indian Companies Act, 1913 (7 of 1913).

[4] The entry relating to the Code of Criminal Procedure, 1882 (10 of 1882), was repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[5] The entry relating to the Code of Civil Procedure (Act 14 of 1882) was repealed by the Code of Civil Procedure, 1908 (Act 5 of 1908).

[6] The entry relating to the Indian Merchant Shipping Act, 1880 [illegible] by Act 21 of 1904.

[7] The entry relating to Act 11 of 1882 was repealed by Act 12 of 1[illegible].

[8] The entry relating to Act 15 of 1882 was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[9] The entry relating to Act [illegible] of 1883 was repealed [illegible] Act, 1917 (1 of 1917).

THE SECOND SCHEDULE—*contd*

*Part I —Acts of the Governor General in Council*—concld

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject or title | Amendment |
| [1]* | * | * * | * * * |
| [2]* | * | * * | * * * |
| 1886 | XXIII | Dekkhan Agriculturists Relief Act, 1886 | In section 10 sub section (3) *for* the same section *read* section 58 |
| 1887 | XVI | Punjab Tenancy Act, 1887 | In section 45 sub section (2) *before* year *insert* agricultural |
| 1888 | III | Police Act 1888 | In<br><br>tered by the Governor of Bombay in Council |
| [3]* | * | * * | * * * |
| 1889 | V | Coroner of Madras | In section 4 sub section (2) *for* that Code *read* the [4]Code of Criminal Procedure, 1882 |
| [5]* | * | * * | * * * |
| [6]* | * | * * | * * * |
| [7]* | * | * * | * * * |
| [8]* | * | * * | * * * |
| 1891 | VII | Amending Act X of 1841 | In section 6, sub section (2) *for* the same section *read* section 17 of the said Act |

[1] The entry relating to the Lower Burma Municipal Act, 1884 (17 of 1884), was repealed by the Burma Laws Act, 1898 (13 of 1898), Bur Code

[2] The entry relating to the Petroleum Act, 1886 (12 of 1886) was repealed by the Petroleum Act, 1899 (8 of 1899)

[3] The entry relating to Act 7 of 1888 was repealed by the Code of Civil Procedure 1908 (Act 5 of 1908)

[4] Now repealed by the Code of Criminal Procedure 1898 (Act 5 of 1898)

[5] The entry relating to the Lower Burma Courts Act 1889 (II of 1889) was repealed by the Lower Burma Courts Act, 1900 (6 of 1900) s 48 and Second Schedule

[6] The entry relating to Act 13 of 1889 was repealed by the Cantonments Act 1910 (15 of 1910)

[7] The entry relating to the Central Provinces Municipal Act 1889 (18 of 1889) was repealed by the Central Provinces Municipal Act, 1903 (16 of 1903) C. P Code

[8] The entry relating to Act 3 of 1890 was repealed by Act 21 of 1902

THE SECOND SCHEDULE—[illegible]

*Part II.*—[illegible]

| 1 | 2 | 3 | 4 |
| --- | --- | --- | --- |
| [illegible] | [illegible] | [illegible] | [illegible] |
| [illegible] | [illegible] | [illegible] | [illegible] XXV, 1793, [illegible] 1876. |
| [illegible]17 | XII | [illegible] | [illegible] 31, [illegible] Board [illegible]<br>[illegible]—<br>31. (1) Any [illegible] 29 [illegible] to the [illegible]<br>(2) [illegible] |
| [illegible] | [illegible] | [illegible] | [illegible] |
| [illegible] | [illegible] | [illegible] | [illegible] |
| [illegible] | [illegible] | [illegible] | [illegible] |

THE SECOND SCHEDULE—*concld*

*Part II —Regulations of the Bengal Code*—concld

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject | Amendment |
| 1823 | VI | Indigo contracts | In section 6 *for* a investigation *read* an investigation |
| 1825 | XIII | Settlement of resumed lakhiraj land | In section 4, *for* the Regulations *read* the Regulation |
| | | | In section 5 *for* Regulations *read* Regulation |

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## ACT No XVI of 1891 [1]

[*14th May 1891* ]

## An Act to declare certain Courts in British India to be Colonial Courts of Admiralty

WHEREAS it is provided by the Colonial Courts of Admiralty Act, 1890,[2] that the Legislature of a British possession may by any colonial law declare any Court of unlimited civil jurisdiction in that possession to be a Colonial Court of Admiralty,

And whereas it is expedient, in pursuance of that provision, to declare certain Courts in British India to be Colonial Courts of Admiralty,

It is hereby enacted as follows —

**1.** (*1*) This Act may be called the Colonial Courts of Admiralty (India) Act, 1891, and Title and commencement

(*2*) It shall come into effect—

(*a*) if Her Majesty's pleasure thereon has been signified, by [3]notification in the Gazette of India, on or before the first day of July, 1891, then on that day, or

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[1] For Statement of Objects and Reasons *see* Gazette of India 1891, Pt V, p 140, and for Proceedings in Council, *see ibid*, 1891 Pt VI, p 116

[2] Coll Stat, Vol II

[3] For notification publishing Her Majesty's Assent to this Act, *see* Gazette of India, 1891, Pt I, p 371

(*b*) if Her Majesty's pleasure thereon has not been so signified on or before that day, then on the day on which Her Majesty's pleasure shall be signified by such a notification as aforesaid.

ppointment of Colonial Courts of Admiralty.

**2.** The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely:—

(*1*) the High Court of Judicature at Fort William in Bengal,

(*2*) the High Court of Judicature at Madras,

(*3*) the High Court of Judicature at Bombay,

(*4*) [1][the [2][High Court of Judicature at Rangoon]],

[3][(*4a*) the Chief Court of Sind, and],

(*5*) the Court of the Resident at Aden, [4]*

[4]* * * * * * *

Construction of Indian Acts referring to Admiralty and Vice-Admiralty Courts.

**3.** The expressions "Court having Admiralty jurisdiction" and "Admiralty Court" and the expression "Admiralty or Vice-Admiralty cause," and other expressions referring to Admiralty or Vice-Admiralty Courts or causes, shall, wherever any such expression occurs in any enactment of the Governor General in Council, or of a Governor in Council or Lieutenant-Governor in Council, be deemed to include a Colonial Court of Admiralty and a Colonial Court of Admiralty cause, and to refer to a Colonial Court of Admiralty or a Colonial Court of Admiralty cause, respectively.

Court-fees in suits in the Colonial Courts of Admiralty at Rangoon, Aden and Karachi.

**4.** Court-fees in suits instituted in the Colonial Court of Admiralty at Rangoon, Aden or Karachi shall, unless the jurisdiction of the Court is to be exercised in any matter relating to the slave-trade, be leviable in accordance with the provisions of Chapter III of the Court-fees Act, 1870. I of 187

**5.** [*Repeal.*] *Rep. by the Repealing and Amending Act, 1914 (10 of 1914).*

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THE SCHEDULE.

ENACTMENTS REPEALED.

(*Rep. by Act 10 of 1914.*)

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[1] These words were substituted by the Lower Burma Courts Act, 1900 (6 of 1900), s. 47, and Schedule I, Ben. Code.

[2] These words were substituted for the words "Chief Court of Lower Burma" by s. 2 and 1st Sch. of Act 11 of 1923.

[3] On the coming into force of Act 34 of 1926, clause (*4a*) is to be deemed to have been inserted by s. 2 and Sch. of that Act.

[4] The word "and" at the end of item (5), and item (6) are to be deemed to have been omitted by s. 2 and Sch. of Act 34 of 1926 when that Act comes into force.

## ACT No. XVIII of 1891.[1]

[*1st October, 1891.*]

# An Act to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows —

**1.** (*1*) This Act may be called the Bankers' Books Evidence Act, 1891. Title and extent.

(*2*) It extends to the whole of British India, [2]*

[2]* * * * * * * *

**2.** In this Act, unless there is something repugnant in the subject or context— Definition.

[3][(*1*) "company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent:]

(*2*) "bank" and "banker" mean—

(*a*) any company carrying on the business of bankers,

(*b*) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided,

[4][(*c*) any post office savings bank or money order office:]

(*3*) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank:

(*4*) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, [illegible] p 24; for Report of the Select Committee, *see ibid*, p. [illegible], and for Proceedings in Council, *see ibid*, Pt VI, pp. 15, 25, 117, 135 and 1[illegible].

The Act has been declared in force in British [illegible] Baluchistan Laws Regulation, 1913 (3 of 1913) *see* [illegible] in force in Upper Burma (except the Shan States) by the Burma Laws Act, [illegible] (13 of 1898), Bur. Code.

It has been declared in force in the Sonthal Parganas by [illegible] Parganas Settlement Regulation (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I.

[2] The word "and" at the end of sub-section (2) and [illegible] were repealed by the Repealing and Amending Act, [illegible]

[3] This definition was substituted for the original definition by the Bankers' Books Evidence Act, 1900 (12 of 1900)

[4] Cl. (*c*) was added by s. 2 of the Bankers' Books Evidence Act, 1[illegible] (1 of 1[illegible]).

(*5*) "the Court" means the person or persons before whom a legal proceeding is held or taken:

(*6*) "Judge" means a Judge of a High Court:

(*7*) "trial" means any hearing before the Court at which evidence is taken: and

(*8*) "certified copy" means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

**Power to extend provisions of Act.**

**3.** The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of the Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal, and a ledger, and may in like manner rescind any such notification.

**Mode of proof of entries in bankers' books.**

**4.** Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in all legal proceedings be received as *primâ facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

**Case in which officer of bank not compellable to produce books.**

**5.** No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

**Inspection of books by order of Court or Judge.**

**6.** (*1*) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(*2*) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank

three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order and thereupon the same shall not be enforced without further order

7 (*1*) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank Costs

(*2*) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding

(*3*) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself

Provided that nothing in this sub section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs

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ACT No II of 1892 [1]

[*29th January, 1892*]

## An Act to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872

WHEREAS provision is made in Part VI of the Indian Christian Marriage Act 1872, for the solemnization of marriages between persons of whom both are Native Christians but not of marriages between persons of whom one only is a Native Christian,

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[1] Short title 'The Marriage Validation Act, 1892' *See* the Indian Short [illegible]
For Statement [illegible] V p 112,
for Report of the [illegible] Proceedings
in Council, *see* the [illegible]
The Act has be[illegible] State ) 1,
the Burma Laws Act, 1898 (13 of 1898), Bur Code
The Act has also been declared in force in the Sonthal Parganas, by s 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), B and O Code
It has been declared in force in British Baluchistan by s 3 of the British Baluchistan Laws Regulation 1913 (2 of 1913), *see* Bal Code

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian;

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated;

It is hereby enacted as follows:—

**1.** [*Commencement.*] *Rep. by the Repealing and Amending Act, 1914 (10 of 1914).*

Definition.

**2.** In this Act the expression "Native Christian" has the same meaning as in the Indian Christian Marriage Act, 1872. XV

Validation of irregular marriages.

**3.** All marriages which have already been solemnized under Part VI of the Indian Christian Marriage Act, 1872, between persons of whom one only was a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians: XV

Provided that nothing in this section shall apply to any marriage which had been judicially declared to be null and void, or to any case where either of the parties has, since the solemnization of such marriage and prior to the commencement of this Act, contracted a valid marriage.

Validation of records of irregular marriages.

**4.** Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians.

Application of Act to marriages under Act V of 1865.

**5.** References in this Act to the Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the [1]Indian Marriage Act, 1865. XV V o

Penalty for solemnizing irregular marriages.

**6.** If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the commencement of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and in addition thereto he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

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[1] Repealed (except as to Straits Settlements) by Act 15 of 1872.

## ACT No VIII of 1892.[1]

*[22nd October, 1892 ]*

### An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes

III WHEREAS by an Act passed by the Governor of Bombay in Council, intituled [2]"an Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay," the Act of the Gov-
51, ernor General in Council "for enabling Government to levy tolls on public roads and bridges" was repealed as far as it affected the Presidency of Bombay,

And whereas the bridge on the line of the North-Western Railway over the Indus at Sukkur in the said Presidency of Bombay, commonly known as "The Lansdowne Bridge," was made and is repaired at the expense of the Government of India,

And whereas, in consequence of such repeal as aforesaid, doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge, and it is expedient to remove such doubts,

It is enacted as follows —

**Title and extent.** **1.** (*1*) This Act may be called the Lansdowne Bridge Act, 1892,

(*2*) It extends to the whole of British India, [3]*

[3]* * * *

**Levy of tolls.** **2.** Notwithstanding the repeal of the lastly hereinbefore mentioned Act the Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit to be levied in respect of the said Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear to him proper, and all the provisions of the said last mentioned Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim.

**Validation of past levy of tolls.** **3.** All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor General in Council or of the Governor of Bombay in Council shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed.

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1892, Pt V, p 67 and for Proceedings in Council, *see ibid*, 1892, Pt. VI, pp 70 and 75.

[2] Bom Code

[3] The word "and" at the end of sub-section (2), and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

Application of Act to public roads and bridges.

4. Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge.

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## ACT No. X of 1892.[1]

[*25th October, 1892.*]

An Act to provide for the levy of a rate on private estates under the management of the Government to meet the cost of supervision and management.

Whereas it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, *other than* establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management; It is hereby enacted as follows:—

Title and extent.

**1.** (*1*) This Act may be called the Government Management of Private Estates Act, 1892.

(*2*) It extends to the whole of British India, inclusive of [2]* * British Baluchistan; [3]*

[3]* * * *

Definitions.

**2.** In this Act, unless there is something repugnant in the subject or context,—

(*1*) "immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 14; for Report of the Select Committee, *see ibid*, 1892, Pt. V, p. 69 and for Proceedings in Council, *see ibid*, 1892, Pt. VI, p. 73.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), *see* the First Schedule and s. 4. Bur. Code.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, B. & O. Code.

[2] The words "Upper Burma and" were repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

[3] The word "and" at the end of sub-section (*2*), and sub-section (*3*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth but not standing timber, growing crops or grass,

(2) "gross income" includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal and the proceeds of sale of immoveable property or of moveable property properly classed as capital, and

(3) "private estates under Government management" include—

(a) estates under the Court of Wards,

(b) encumbered estates under Government management,

(c) estates attached for default of payment of Government revenue,

(d) minors' estates placed under the guardianship of a revenue-officer of the Government by a Civil Court,

(e) estates managed by a Collector in pursuance of any order
882 made under the [1]Code of Civil Procedure, and

(f) all other estates made over to or taken under the management of a revenue-officer of the Government as such under any law for the time being in force or in virtue of any agreement

**3.** It shall be lawful for the [2]Local Government— Power to levy rate.

(1) to levy on all private estates under Government management a rate not exceeding five per cent on the gross income, calculated, as nearly as may be possible, to cover—

(a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(b) all contingent expenditure incurred in consequence of such supervision or management,

(2) from time to time to vary such rate, and

(3) to reduce or remit such rate in any special case or cases as may be equitable

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates

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[1] *See* now Act 5 of 1908

[2] For instance of notification issued under the powers conferred by this section fixing a rate to be levied on any estate, *see* C P. R. and O

such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

(*2*) If two or more shareholders severally apply for leave to buy as provided in sub-section (*1*), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(*3*) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

Partition suit by transferee of share in dwelling-house.

**4.** (*1*) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

(*2*) If in any case described in sub-section (*1*) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (*2*) of the last foregoing section.

Representation of parties under disability.

**5.** In any suit for partition a request for sale may be made or an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request, undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

Reserved bidding and bidding by shareholders.

**6.** (*1*) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

(*2*) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(*3*) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

Procedure to be followed in case of sales.

**7.** Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely:—

(*a*) If the property be sold under a decree or order of the High Court of Calcutta, Madras or Bombay in the exercise of its

original jurisdiction, or of the [1] Court of the Recorder of Rangoon, the procedure of such Court in its original civil jurisdiction for the sale of property by the Registrar,

(*b*) if the property be sold under a decree or order of any other Court, such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the [2]Code of Civil Procedure in respect of sales in execution of decrees

**8.** Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the [2] Code of Civil Procedure

Orders for sale to be deemed decrees.

**9.** In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act

Saving of power to order partl partition and partly sale.

**10.** This Act shall apply to suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court

Application of Act to pending suits.

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## ACT No XI of 1893 [3]

*[21st September, 1893]*

## An Act to make provision for certain matters connected with the Tributary Mahals of Orissa

WHEREAS it is expedient * * *[4] to indemnify certain persons and validate acts done by them in, or in relation to, the said Mahals, and to admit of certain sentences passed in those Mahals being carried into effect in British India, It is hereby enacted as follows —

**1.** (*1*) This Act may be called the Tributary Mahals of Orissa Act, 1893.

Title and extent

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[1] There is no longer a Court of the Recorder at Rangoon, since the establishment of a Chief Court and subsequently a High Court there, *see* the Burma Courts Act, 1922 (11 of 1922), Bur Code

[2] *See* now Act 5 of 1908

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1893, Pt V, p 96, and for Proceedings in Council, *see ibid*, Pt VI, pp 191, 196, 202 and 203

[4] The words "to repeal certain enactments relating to the Tributary Mahals of Orissa, and" were omitted by the Repealing and Amending Act, 1903 (I of 1903)

*Enquiry into Measurements, Value and Claims, and Award by the Collector.*

SECTIONS.

11. Enquiry and award by Collector.
12. Award of Collector when to be final.
13. Adjournment of enquiry.
14. Power to summon and enforce attendance of witnesses and production of documents.
15. Matters to be considered and neglected.

*Taking Possession.*

16. Power to take possession.
17. Special powers in cases of urgency.

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PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. Reference to Court.
19. Collector's statement to the Court.
20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters to be neglected in determining compensation.
25. Rules as to amount of compensation.
26. Form of awards.
27. Costs.
28. Collector may be directed to pay interest on excess compensation.

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PART IV.

APPORTIONMENT OF COMPENSATION.

29. Particulars of apportionment to be specified
30. Dispute as to apportionment.

## PART V.

### Payment.

Sections.

31. Payment of compensation or deposit of same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

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## PART VI

### Temporary Occupation of Land.

35. Temporary occupation of waste or arable land.
    Procedure when difference as to compensation exists.
36. Power to enter and take possession, and compensation on restoration.
37. Difference as to condition of land.

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### Acquisition of Land for Companies.

38. Company may be authorized to enter and survey.
39. Previous consent of Local Government and execution of agreement necessary.
40. Previous enquiry.
41. Agreement with Secretary of State in Council.
42. Publication of agreement.
43. Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.
44. How agreement between Railway Company and Secretary of State may be proved.

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## PART VIII.

### Miscellaneous.

45. Service of notices.
46. Penalty for obstructing acquisition of land.
47. Magistrate to enforce surrender.

SECTIONS.

48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.
49. Acquisition of part of house or building.
50. Acquisition of land at cost of a local authority or Company.
51. Exemption from stamp-duty and fees.
52. Notice in case of suits for anything done in pursuance of Act.
53. Code of Civil Procedure to apply to proceedings before Court.
54. Appeals in proceedings before Court.
55. Power to make rules.

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## ACT No. I OF 1894.[1]

*[2nd February, 1894.]*

## An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 32; for Report of the Select Committee, *see ibid*, 1894, Pt. V, p. 23 and for Proceedings in Council, *see ibid*, 1892, Pt. VI, p. 25, and *ibid*, 1894, pp. 19, 24 to 42.

The Act has been declared in force in—

(1) Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), s. 4, Bur. Code;
(2) Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, B. & O. Code, Vol. I.
(3) Angul District by the Angul Laws Regulation, 1913 (3 of 1913), *see* B. & O. Code.

The Act has also been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in (1) the districts of Hazaribagh, Lohardaga (now called the Ranchi District—Calcutta Gazette, 1899, Pt. I, p. 44) and Manbhum, and in Pargana Dhalbhum and the Kolhan in the District of Singhbhum—Gazette of India, 1894, Pt. I, p. 400; and (2) the District of Palamau, Gazette of India, 1894, Pt. I, p. 639.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), Bal. Code.

For modifications in this Act to make provision for the improvement and expansion of towns in the Punjab, *see* s. 59 and Sch. of the Punjab Town Improvement Act, 1922 (Punj. Act 4 of 1922).

For modifications in this Act to make provision for acquiring land in the C. P. municipal area, *see* s. 239 and Sch. of the C. P. Municipal Act, 1922 (C. P. Act 2 of 1922).

For extent to which this Act shall apply to acquisition of land in the Bombay City, *see* s. 63 of the City of Bombay Improvement Trust Transfer Act, 1925.

For modifications with which this Act applies in Calcutta, *see* s. 71 and Schedule of the Calcutta Improvement Act, 1911 (Ben. Act 5 of 1911).

For modifications in this Act to make provision for the improvement and expansion of towns in the United Provinces, *see* s. 58 and Schedule to the United Provinces Town Improvement Act, 1919 (U. P. Act 8 of 1919).

For modifications in this Act to make provision for the improvement and expansion of the city of Rangoon, *see* s. 34 and Schedule I to the Rangoon Development Trust Act, 1920 (Bur. Act 5 of 1920).

amount of compensation to be made on account of such acquisition, It is hereby enacted as follows —

## PART I

### PRELIMINARY

Short title, extent and commencement.

**1.** (*1*) This Act may be called the Land Acquisition Act, 1894,

(*2*) It extends to the whole of British India, and

(*3*) It shall come into force on the first day of March, 1894

Repeal

**2.** (*1*) [1]* * * *

(*2*) [2]* all proceedings commenced officers appointed or authorized, agreements published and rules made under the [3][Land Acquisition Act, 1870,] shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized published and made under this Act

(*3*) Any enactment or document referring to the [3][Land Acquisition Act, 1870,] or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof

Definitions.

**3** In this Act unless there is something repugnant in the subject or context,—

(*a*) the expression " land " includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth

(*b*) the expression " person interested " includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act and a person shall be deemed to be interested in land if he is interested in an easement affecting the land

(*c*) the expression " Collector " means the Collector of a district, and includes a Deputy Commissioner and any [4]officer specially appointed by the Local Government to perform the functions of a Collector under this Act

(*d*) the expression " Court " means a principal Civil Court of original jurisdiction, unless the Local Government has [5]appointed (as it is hereby empowered to do) a special

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[1] Sub section (*1*) was repealed by the Repealing and Amending Act, 1914 (*10 of 1914*)

[2] The word " But " was repealed by *ditto*

[3] These words were substituted for the words " said Land Acquisition Act " by *ditto*

[4] For officers specially appointed under clause (*c*) *see* different local Rules and Orders

[5] For instances of such appointments, *see ibid*

For notification appointing the District Judge of Mirzapur for the family Domains of the Maharaja of Benares in the Mirzapur and Benares district, *see* U P Gazette, 1907, Pt I, p 725

judicial officer within any specified local limits to perform the functions of the Court under this Act:

(*e*) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the VI of 1882
(English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent [1][and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912]:

(*f*) the expression "public purpose" includes the provision of village-sites in districts in which the Local Government shall have declared by [2]notification in the official Gazette that it is customary for the Government to make such provision: and

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

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[1] These words were added by s. 2 of the Land Acquisition (Amendment) Act, 1919 (17 of 1919).

[2] For instances of such notifications, *see* Bur. R. M., Vol. I; Bom. R. and O., Vol. I; and Coorg R. and O.

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Chapter XXXI of the [1] Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale

## PART II

### Acquisition.

*Preliminary Investigation*

[2] **4.** (*1*) Whenever it appears to the Local Government that land in any locality [3][is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality. Publication of preliminary notification and powers of officers thereupon.

(*2*) Thereupon it shall be lawful for any officer, either generally or specially authorised[4] by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality,

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

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[1] *See* now Act 5 of 1908.

[2] As to amendments with which this section should be read when land is required for the purposes of a Company, *see s* 38 (*2*), *infra*

A protected monument may be acquired under this Act as if its preservation were a "public purpose" within the meaning of the Act, *see s. 10 of the Ancient Monuments Preservation Act, 1904 (7 of 1904)*

[3] These words were inserted by s. 2 of the Land Acquisition (Amendment) Act, 1923 (38 of 1923).

[4] For officers specially authorized in Burma, *see* Bur. R. M.

to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

**5.** The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

[1][*Objections.*

Hearing of objections.

**5A.** (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.]

*Declaration of intended Acquisition.*

Declaration that land is required for a public purpose.

**6.** (1) Subject to the provisions of Part VII of this Act, [2][when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2),] that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

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[1] Inserted by s. 3 of the Land Acquisition (Amendment) Act, 1923 (38 of 1923).
[2] These words were substituted for the words "whenever it appears to the Local Government" by s. 4, *ibid.*

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and where a plan shall have been made of the land the place where such plan may be inspected

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing

**After declaration Collector to take order for acquisition.**

7 Whenever any land shall have been so declared to be needed for a public purpose or for a Company the Local Government or some officer authorised by the Local Government in this behalf shall direct the Collector to take order for the acquisition of the land

**Land to be marked out measured and planned**

8 The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out He shall also cause it to be measured, and if no plan has been made thereof a plan to be made of the same

**Notice to persons interested.**

9 (*1*) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken stating that the Government intends to take possession of the land and that claims to compensation for all interests in such land may be made to him

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8 The Collector may in any case require such statement to be made in writing and signed by the party or his agent

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested as reside or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence address or place of business and registered under Part III of the [1] Indian Post Office Act 1866

[1] See now the Indian Post Office Act, 1898 (6 of 1898)

Power to require and enforce the making of statements as to names and interests.

**10.** (*1*) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(*2*) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860.

*Enquiry into Measurements, Value and Claims, and Award by the Collector.*

Enquiry and award by Collector.

**11.** On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land [1][at the date of the publication of the notification under section 4, sub-section (*1*)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

(*i*) the true area of the land;

(*ii*) the compensation which in his opinion should be allowed for the land; and

(*iii*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

**12.** (*1*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(*2*) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry.

**13.** The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

[1] These words were inserted by s. 5 of the Land Acquisition (Amendment) Act, 1923 (38 of 1923).

Power to summon and enforce attendance of witnesses and production of documents.

**14** For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the [1] Code of Civil Procedure

Matters to be considered and neglected.

**15** In determining the amount of compensation the Collector shall be guided by the provisions contained in sections 23 and 24

*Taking possession*

Power to take possession.

**16** When the Collector has made an award under section 11 he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances

Special powers in cases of urgency

**17** (*1*) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made may on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub section (*1*), take possession of any waste or arable land needed for public purposes or for a Company Such land shall thereupon vest absolutely in the Government, free from all encumbrances

(*2*) Whenever owing to any sudden change in the channel of any navigable river or other unforeseen emergency it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river side or ghat station, or of providing convenient connection with or access to any such station the Collector may, immediately after the publication of the notice mentioned in sub section (*1*) and with the previous sanction of the Local Government enter upon and take possession of such land which shall thereupon vest absolutely in the Government free from all encumbrances

Provided that the Collector shall not take possession of any building or part of a building under this sub section without giving to the occupier thereof at least forty eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience

(*3*) In every case under either of the preceding sub sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24, and, in case such offer is not accepted the value of such crops and trees and the amount of such

[1] See now Act 5 of 1908

other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

[1][(*4*) In the case of any land to which, in the opinion of th Government, the provisions of sub-section (*1*) or sub-section applicable, the Local Government may direct that the provis section 5A shall not apply, and, if it does so direct, a declarati be made under section 6 in respect of the land at any time a: publication of the notification under section 4, sub-section (*1*).

## PART III.

### Reference to Court and Procedure thereon.

Reference to Court.

**18.** (*1*) Any person interested who has not accepted the awar by written application to the Collector, require that the matter be red by the Collector for the determination of the Court, wheth objection be to the measurement of the land, the amount of the pensation, the persons to whom it is payable, or the apportionm the compensation among the persons interested.

(*2*) The application shall state the grounds on which objection t award is taken:

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before Collector at the time when he made his award, within six weeks f the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice fr the Collector under section 12, sub-section (*2*), or within six months fro the date of the Collector's award, whichever period shall first expire.

...tor's statement to the Court.

**19.** (*1*) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

[1] Sub-section (*4*) was added by s. 6 of the Land Acquisition (Amendment) Act, 1923 (38 of 1923).

(*Part III — Reference to Court and Procedure thereon* )

To the said statement shall be attached a schedule giving the lars of the notices served upon, and of the statements in writing or delivered by, the parties interested respectively

The Court shall thereupon cause a notice specifying the day on the Court will proceed to determine the objection and directing ppearance before the Court on that day to be served on the follow isons, namely — Service of notice

(*a*) the applicant,

(*b*) all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation awarded and

(*c*) if the objection is in regard to the area of the land or to the amount of the compensation the Collector

The scope of the inquiry in every such proceeding shall be cted to a consideration of the interests of the persons affected by bjection Restriction on scope of proceedings

2 Every such proceeding shall take place in open Court and all ons entitled to practise in any Civil Court in the province shall be led to appear, plead and act (as the case may be) in such proceeding Proceedings to be in open Court.

.3 (*1*) In determining the amount of compensation to be awarded land acquired under this Act the Court shall take into considera — Matters to be considered in determining compensation

*first*, the market-value of the land at the date of the publication of the [1][notification under section 4, sub section (*1*)],

*secondly*, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof

*thirdly*, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land by reason of severing such land from his other land,

*fourthly*, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land by reason of the acquisition injuriously affecting his other property movable or immoveable in any other manner or his earnings,

*fifthly*, if in consequence of the acquisition of the land by the Collector the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change and

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[1] These words were substituted by s 7 of the Land Acquisition (Amendment) Act, 1923 (38 of 1923)

*sixthly*, the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(*2*) In addition to the market-valué of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

**24.** But the Court shall not take into consideration—

*first*, the degree of urgency which has led to the acquisition;

*secondly*, any disinclination of the person interested to part with the land acquired;

*thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

*fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

*fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

*sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,

*seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the [1][notification under section 4, sub-section (*1*)].

Rules as to amount of compensation.

**25.** (*1*) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(*2*) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(*3*) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

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[1] These words were substituted by s. 8 of the Land Acquisition (Amendment) Act, 1923 (38 of 1923).

[1][**26.** *(1)*] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (*1*) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub section, together with the grounds of awarding each of the said amounts — Form of awards

[1][(*2*) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (*2*), and section 2, clause (*9*) respectively, of the Code of Civil Procedure, 1908 ]

**27.** (*1*) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid — Costs

(*2*) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs

**28.** If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court — Collector may be directed to pay interest on excess compensation.

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## PART IV

### Apportionment of Compensation

**29.** Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment. — Particulars of apportionment to be specified

**30.** When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court — Dispute as to apportionment.

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[1] Section 26 was re-numbered s 26 (1), and sub-section (2) was added to that section by s 2 of the Land Acquisition (Amendment) Act, 1921 (19 of 1921)

[1][26. (*1*)] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub section (*1*) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub section, together with the grounds of awarding each of the said amounts

Form of awards

[1][(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (*2*), and section 2, clause (*9*), respectively, of the Code of Civil Procedure, 1908 ]

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Costs

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs

**28** If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court

Collector may be directed to pay interest on excess compensation.

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## PART IV

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Particulars of apportionment to be specified

**30** When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court

Dispute as to apportionment.

[1] Section 26 was re-numbered s. 26 (*1*) and sub-section (*2*) was added section by s. 2 of the Land Acquisition (Amendment) Act, 1921 (10 of 1921)

## PART V.

### PAYMENT.

Payment of compensation or deposit of same in Court.

**31.** (*1*) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(*2*) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(*3*) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(*4*) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and [1]competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

**32.** (*1*) If any money shall be deposited in Court under sub-section (*2*) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(*a*) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

[1] As to persons who are competent to contract, *see* s. 11 of the Indian Contract Act, 1872 (9 of 1872).

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit,

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(*2*) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

**33.** When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Investment of money deposited in other cases.

**34.** When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

Payment of interest.

## PART VI.

### TEMPORARY OCCUPATION OF LAND.

**35.** (*1*) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and

Temporary occupation of waste or

arable land. Procedure when difference as to compensation exists.

use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(*2*) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

(*3*) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Power to enter and take possession, and compensation on restoration.

**36.** (*1*) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(*2*) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

**37.** In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

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## PART VII.

### Acquisition of Land for Companies.

Company may be authorized to enter and survey.

**38.** (*1*) [1]* * * * The Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

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[1] The words "Subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted, and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted

*Previous consent of Local Government and execution of agreement necessary*

**39** The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government nor unless the Company shall have executed the agreement hereinafter mentioned

*Previous enquiry*

**40** (1) Such consent shall not be given unless the Local Government be satisfied, [1][either on the report of the Collector under section 5A sub section (2), or] by an enquiry held as hereinafter provided,—

(a) that such acquisition is needed for the construction of some work, and

(b) that such work is likely to prove useful to the public

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the [2]Code of Civil
32 Procedure in the case of a Civil Court

*Agreement with Secretary of State in Council*

**41** [3]* * * * * If the Local Government is satisfied [4][after considering the report if any, of the Collector under section 5A sub section (2), or on the report of the officer making an inquiry under section 40] that the proposed acquisition is needed for the construction of a work and that such work is likely to prove useful to the public, it shall [5]* * * require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters namely —

(1) the payment to Government of the cost of the acquisition

(2) the transfer on such payment of the land to the Company,

(3) the terms on which the land shall be held by the Company,

(4) the time within which and the conditions on which the work shall be executed and maintained and

(5) the terms on which the public shall be entitled to use the work

*Publication of agreement*

**42** Every such agreement shall as soon as may be after its execution be published in the Gazette of India and also in the local official

[1] These words were added by s 9 of the Land Acquisition (Amendment) Act 1923 (38 of 1923)

[2] See now Act 5 of 1908

[3] Certain words were omitted by s 10 of the Land Acquisition (Amendment) Act 1923 (38 of 1923)

[4] These words were inserted by s 10 ibid

[5] Certain words were omitted by s 2 and Sch I of the Devolution Act 1920 (38 of 1920)

Gazette and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

**43.** The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the [1]Land Acquisition Act, 1870, X of 1870. shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

How agreement between Railway Company and Secretary of State may be proved.

**44.** In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

## PART VIII.

### MISCELLANEOUS.

Service of notices.

**45.** (*1*) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(*2*) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(*3*) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under XIV of 1866. Part III of the [2]Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

Penalty of obstructing acquisition of land.

**46.** Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any

[1] Repealed by this Act.
[2] *See* now the Indian Post Office Act, 1898 (6 of 1898).

term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

**47.** If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector. Magistrate to enforce surrender.

**48.** (*1*) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(*2*) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(*3*) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

**49.** (*1*) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired: Acquisition of part of house or building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(*2*) If, in the case of any claim under section 23, sub-section (*1*), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

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(*3*) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or Company.

**50.** (*1*) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(*2*) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

**51.** No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

**52.** No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

**53.** Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the [1] Code of Civil Procedure shall apply to all proceedings before the Court under this Act. XIV of 1882.

Appeals in proceedings before Court.

[2][**54.** Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.] V of 1908.

Power to make rules.

**55.** (*1*) The Local Government shall [3] * * * * have power to make [4]rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made:

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[1] *See* now Act 5 of 1908.

[2] This section was substituted by s. 3 of the Land Acquisition (Amendment) Act, 1921 (10 of 1921).

[3] The words "subject to the control of the Governor General in Council" [which were inserted into the Act by the Decentralization Act, 1914 (4 of 1914)], were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[4] For rules made under this section, *see* different local Rules and Orders.

[1][Provided that where the provisions of this Act are put in force for the acquisition of land—

(a) for the purposes of any railway, or

(b) for such other purposes, connected with the administration of a central subject as defined in section 45A of the Government of India Act, as the Governor General in Council may, by notification in the Gazette of India, declare in this behalf,

the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor General in Council.]

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall [2]* * * be published in the official Gazette, and shall thereupon have the force of law.

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## ACT No. III OF 1894.[3]

[*23rd February, 1894.*]

### An Act to amend [4]* * * * the Indian Penal Code.

WHEREAS it is expedient to amend [4]* * * * the Indian Penal Code; It is hereby enacted as follows:—

**1 to 4.** [*Amendment of the Code of Criminal Procedure, 1882.*] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

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[1] The proviso was added by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

[2] The words "when sanctioned by the Governor General in Council" were omitted by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

[3] Short title "The Indian Criminal Law Amendment Act, 1894." See the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 97; for Report of the Select Committee, see ibid. 1894, Pt. V, p. 37, and for Proceedings in Council, see ibid, 1893, Pt. VI, p. 196, ibid. 1894, Pt. VI, pp. 21, 19 and 55.

This Act is in force in Upper Burma (except the Shan States) as being part of the principal Act 45 of 1860, declared in force there, by s. 4 and the first schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code, for the same reason it is in force in British Baluchistan (Bal. Code) and in the Angul District (B. & O. Code).

The Act has been declared in force in the Sonthál Parganas by s. 3 of the [illegible] (3 of 1872) as amended by the Sonthál [illegible] 1899 (3 of 1899), B. & O. Code, Vol. I.

[illegible] Procedure, 1882, and" in the title and [illegible] and Amending Act, 1914 (10 of 1914).

[1]* * * *

Addition to section 177 of Indian Penal Code.

5. To section 177 of the Indian Penal Code the following shall be added, namely:— XLV of 1860.

"*Explanation.*—In section 176 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word 'offender' includes any person who is alleged to have been guilty of any such act."

Addition to section 203 of same Code.

6. To section 203 of the said Code the following shall be added, namely:—

"*Explanation.*—In sections 201 and 202 and in this section the word 'offence' includes any act committed at any place out of British India which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460."

Addition to section 212 of same Code.

7. In section 212 of the Indian Penal Code immediately before the *Exception* the following shall be inserted, namely:— XLV of 1860.

"'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

Addition of new sections after section 216 of same Code.

8. After section 216 of the said Code the following shall be inserted, namely:—

Penalty for harbouring robbers or dacoits.

"216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

"*Explanation.*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed within or without British India.

"*Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Definition of 'harbour' in sections 212, 216 and 216A.

"216B. In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension."

[1] The heading "Indian Penal Code" was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

# THE INDIAN TARIFF ACT, 1894.

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## ACT No. VIII OF 1894.[1]

[*10th March, 1894.*]

## An Act to amend the law relating to Customs-duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1894, Pt. V, p. 53; for Report of the Select Committee, *see* Gazette of India, Extraordinary, dated 10th March, 1894, p. 13; for Proceedings in Council, *see* Gazette of India, Pt. VI, pp. 71 and 96.

The Act has been declared in force in the Sonthál Parganas by s. 3 of Reg. 3 of 1872, as amended by Reg. 3 of 1899, s. 3, B. & O. Code, Vol. I.

levy of duties on goods [1][imported into or exported from British India by land]; It is hereby enacted as follows:—

Title and extent.

**1.** (*1*) This Act may be called the Indian Tariff Act, 1894.

(*2*) It extends to the whole of British India except Aden and Perim; [2]*

[2]* * * *

Repeal.

**2.** (*1*) The Acts mentioned in the first Schedule are repealed to the extent specified therein.

(*2*) But all notifications published, and rules and orders made, under any of those Acts, and in force immediately before the commencement of this Act, shall, so far as they are consistent herewith, be deemed to have been respectively published and made under this Act: and

(*3*) All references made to the Indian Tariff Act, 1875,[3] and the Indian Tariff Act, 1882,[4] in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act. XVI of 1875. XI of 1882.

(*4*) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs-port in British India to another such port, except salt, opium and spirit.

Duties specified in Schedules to be levied.

[5]**3.** (*1*) There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third Schedules.

(*2*) The Governor General in Council may, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem*, and may alter any tariff values for the time being in force.

(*3*) Different tariff values may be fixed for different classes or descriptions of the same article.

[6][(*4*) If the Governor General in Council is satisfied, after such inquiry as he thinks necessary, that articles of British manufacture chargeable with duty under Part VII of the second Schedule are being imported into British India at such a price as is likely to render ineffective the protection intended to be afforded by such duty to similar articles manufactured in India, he may, by notification in the Gazette of India, increase such duty to such extent as he thinks necessary.

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[1] These words were substituted for the words "crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs" by s. 2 of the Indian Tariff (Amendment) Act, 1924 (9 of 1924).

[2] The word "and" at the end of sub-section (2), and sub-section (3) were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

[3] Act 16 of 1875 was repealed by the Indian Tariff Act, 1882 (11 of 1882).

[4] Act 11 of 1882 is repealed by s. 2 (*1*) and Sch. I of this Act.

[5] This section was substituted by s. 3 of the Indian Tariff (Amendment) Act, 1916 (4 of 1916).

[6] Sub-sections (4), (5) and (6) were substituted by s. 2 of the Steel Industry (Protection) Act, 1927 (3 of 1927), for the original sub-section (4) (which was inserted by Act 14 of 1924).

(*5*) If the Governor General in Council is satisfied, after such inquiry as he thinks necessary, that articles not of British manufacture chargeable under Part VII of the second Schedule with a higher duty than similar articles of British manufacture are being imported into British India from any place outside India at such a price as is likely to render ineffective or excessive the protection intended to be afforded by such duty to similar articles manufactured in India, he may, by notification in the Gazette of India, increase or reduce such duty to such extent as he thinks necessary either generally or in respect of such articles when imported from or manufactured in any country or countries specified in the notification

Provided that the duty leviable on any such article shall in no case be less than the duty leviable on a like article of British manufacture

(*6*) The Governor General in Council may, by notification in the Gazette of India, prescribe the conditions subject to which articles shall be deemed to be of British manufacture for the purposes of this section and of the second Schedule ]

**4.** [*Export of pepper from Cochin* ] *Rep by the Indian Finance Act, 1921 (VI of 1921)*

Duties on imports and exports by land

[1][**5.** Where a duty of customs at any rate prescribed by or under this Act or any other law for the time being in force is leviable on any article when imported into, or on any article when exported from, a port in British India, the Governor General in Council may, by notification in the Gazette of India, direct that a duty of customs at the like rate shall be leviable on any such article when imported or exported, as the case may be, by land from or to any territory outside British India, which he may, by a like notification, declare to be foreign territory for the purposes of this section ]

Amendment of Act XVI, 1863 section 1

[2]**6** In Act No XVI of 1863,[3] section 1, for the words "calculated at ten" the words "not exceeding five" shall be substituted

Duty on salt, opium and spirit, when protected by a certificate

**7** (*1*) Salt, opium and spirit imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor General in Council or the Local Government, are charge-

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[1] This section was substituted by s 3 of the Indian Tariff (Amendment) Act, 1924 (9 of 1924)

[2] S 6 is repealed—

in the province of Bengal as constituted in 1909 by the Bengal Excise Act, 1909 (Ben Act 5 of 1909), *see* Ben Code,

in the United Provinces by the United Provinces Excise Act, 1910 (U P Act 4 of 1910) *see* U P Code

in Assam by the Eastern Bengal and Assam Excise Act, 1910 (E B & A Act 1 of 1910) *see* Assam Code

in the Central Provinces by the Central Provinces Excise Act, 1915 (C P. Act 2 of 1915) *see* C P Code,

in Madras by the Madras Abkari Act 1886 (Mad Act 1 of 1886), as amended by Madras Act 1 of 1914, *see* Mad Code,

in the Punjab by the Punjab Excise Act, 1914 (Punj Act 1 of 1914) *see* P and N W F Code,

in Burma by the Burma Excise Act, 1917 (Bur Act 5 of 1917), *see* Bur Code

[3] The Excise (Spirits) Act 1863

able with only the amount, if any, by which the duty leviable thereon under the [1][second Schedule] exceeds the duty shown by such certificate to have been already paid in respect thereof.

(*2*) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(*3*) Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878. VIII of 1878.

Application of certain provisions as to duties and goods.

[2]**8.** So far as regards the Presidency of Fort Saint George, the unrepealed provisions of Act No. VI of 1844,[3] and, so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857,[4] relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5 * * *[5].

Additional import-duty on bounty-fed articles.

[6][**8A.** (*1*) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon [7][the production therein or] the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(*2*) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (*1*).]

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[1] These words were substituted for the words "third Schedule" by s. 2 and the Schedule of the Amending Act, 1916 (13 of 1916).

[2] This section has been virtually modified by s. 10 of the Land Customs Act, 1924 (19 of 1924).

[3] Mad. Code.

[4] For Act 29 of 1857, *see* Bom. Code.

[5] The words, figure and brackets "sub-section (*1*), clause (*b*)" were omitted by s. 4 of the Indian Tariff (Amendment) Act, 1924 (9 of 1924).

[6] S. 8A was added by the Indian Tariff (Amendment) Act, 1899 (14 of 1899).

[7] These words were inserted by s. 2 of the Indian Tariff (Amendment) Act, 1903 (12 of 1903).

[1][8B (*1*) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess

Special import-duty on sugar in certain cases

(*2*) The Governor General in Council may, from time to time, by general or special order, declare, for the purposes of sub section (*1*),—

(*a*) what articles or substances containing any saccharine matter shall be deemed to be "sugar" and what kinds of sugar shall be deemed to be "refined sugar" or "other sugar", respectively, and

(*b*) what sums in the currency of British India shall be deemed to be the equivalent of "francs" and "centimes", respectively

(*3*) The amount of the excess referred to in sub section (*1*) shall be from time to time ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon *the importation thereof under sub-section (1)* ]

**8C** [*Continuation of duties chargeable under section 8A or 8B on 31st August, 1903* ]—*This section was inserted by section 3 of Act 12 of 1903, which was repealed by Act 10 of 1914*

**9** All notifications published under this Act may be cancelled by the authority publishing the same

Power to cancel notifications

**10** In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the con-

When contracts have been entered into to amount of increased or decreased duty to be allowed or deducted

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[1] S 8B was added by the Indian Tariff (Amendment) Act, 1902 (8 of 1902), s 2 It was to remain in force until the 31st August 1903 but was subsequently revived by the Tariff Act, 1904 (11 of 1904), s 1, and continued in force from 1st April 1904

tract, or for the sale of such article duty-paid, where duty was chargeable at that time,—

(*a*) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, [1][or any part thereof,] is paid, the seller may add so much to the contract price as will be [2][equivalent to the amount paid in respect of such duty] or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and,

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty, or remitted duty, and he shall not be liable to pay, or be sued, for, or in respect of, such deduction.

Amendment of Act VIII of 1878, section 23.

**11.** In the second paragraph of section 23 of the Sea Customs Act, 1878, the words "with the previous sanction of the Governor General in Council" shall be inserted after the word "may". VIII of 1878.

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SCHEDULE I.—(ACTS REPEALED).

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| | *Acts of the Governor General in Council.* | |
| XI of 1882 . . | Indian Tariff Act, 1882 . . . . | So much as has not been repealed. |
| II of 1887 . . | An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882. | Section 8. |
| II of 1888 . . | An Act to provide for the levy of a customs duty on Petroleum. | Section 1. |
| VIII of 1889 . . | An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882. | Sections 3, 4 and 5. |
| XII of 1890 . . | An Act to amend the Indian Tariff Act, 1882. | The whole. |
| I of 1892 . . | An Act to amend the Indian Tariff Act, 1882. | Ditto. |
| IX of 1893 . . | An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts. | Ditto. |

[1] These words were inserted by s. 2 of the Indian Tariff (Amendment) Act, 1919 (19 of 1919).

[2] These words were substituted for the words "equivalent to the duty" by s. 2, *ibid.*

## [1]SCHEDULE II.—Import Tariff.

### Part I.

### Articles which are free of duty.

| No | Names of Articles |
|---|---|
| | *I.—Food, Drink and Tobacco—* |
| 1 | Hops. |
| [2][1A. | Grain and Pulse all sorts, including broken grains and pulse, but excluding flour (*see* [3][Nos. 1B and 68]).] |
| [4][1B. | Sago flour.] |
| 2 | Salt imported into British India and issued in accordance with rules made with the previous sanction of the Governor General in Council, for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the Government of Bengal to manufacturers of glazed stone ware; also salt imported into any port in the provinces of Bengal and Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in curing fish in those provinces. |
| | (For the general duty on salt, *see* No. 3o.) |
| | *II.—Raw materials and produce and articles mainly unmanufactured—* |
| | HIDES AND SKINS, RAW. |
| 3 | Hides and Skins, raw or salted. |
| | METALLIC ORES. |
| 4 | Metallic Ores, all sorts [5][except ochres and other pigment ores]. |
| | PRECIOUS STONES AND PEARLS. |
| 5 | Precious Stones, unset and imported uncut, and Pearls unset. |
| | SEEDS. |
| 6 | Oil seeds imported into British India by sea from the territories of any Prince or Chief in India. |
| | [6][TALLOW, STEARINE AND WAX. |
| 6A | Tallow.] |
| | TEXTILE MATERIALS. |
| 7 | Cotton, raw. |
| 8 | Wool, raw, and wool tops. |

[1] [illegible] I of the Indian Finance Act, [illegible]
[2] [illegible] t, 1925 (13 of 1925).
[3] [illegible] 2 and Sch. of Act 21 of 1927.
[4] This item was inserted by s. 2, [illegible]
[5] These words were added by s. 3 (1) and 1st Schedule of the Indian Finance Act, 1923.
[6] This item was inserted by s. 2 of Act 21 of 1927.

## SCHEDULE II.—IMPORT TARIFF—*contd.*

### PART I—*contd.*

### Articles which are free of duty—*contd.*

| No. | Names of Articles. |
|---|---|
| | MISCELLANEOUS. |
| [1][8A | China clay.] |
| 9 | MANURES, all sorts, including animal bones and the following chemical manures:— Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, [2][carbo lime, urea], nitrate of lime, calcium cyanamide, mineral phosphates and mineral superphosphates. |
| 10 | PULP OF WOOD, RAGS and other paper-making materials. |
| [3][10A | RUBBER STAMPS, rubber seeds and raw rubber.] |
| [4][10B | STICK OR SEED LAC.] |
| | *III.—Articles wholly or mainly manufactured—* |
| | APPAREL. |
| 11 | UNIFORMS and ACCOUTREMENTS appertaining thereto, imported by a public servant for his personal use. |
| | ARMS, AMMUNITION AND MILITARY STORES. |
| 12 | The following ARMS, AMMUNITION and MILITARY STORES:— |
| | (*a*) Articles falling under the [5][3rd, 4th, 6th, 7th or 8th sub-head] of No. 42, when they appertain to a firearm falling under [6][that Item] and are fitted into the same case with such firearm. |
| | (*b*) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform. |
| | (*c*) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (*i*) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (*ii*) certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving or, in the case of a police officer, by an Inspector General or Commissioner of Police, to be imported by the officer for the purpose of his equipment. |
| | (*d*) Swords for presentation as army or volunteer prizes. |
| | (*e*) Arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a State in India which may be maintained and organized for Imperial Service. |
| | (*f*) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men. |

[1] This item was inserted by s. 2 and Sch. of Act 24 of 1927.

[2] These words were inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).

[3] This item was substituted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927), for the original item inserted by Act 14 of 1925.

[4] This item was added by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1926 (17 of 1926).

[5] These words and figures were substituted for the words and figures "5th, 6th, 8th, 9th or 10th item" by s. 2 and Sch., *ibid.*

[6] These words were substituted for the words and figures "the 1st or 3rd item" by s. 2 and Sch., *ibid.*

## SCHEDULE II.—Import Tariff—*contd.*

### Part I—*contd.*

### Articles which are free of duty—*contd.*

| No | Names of Articles |
|---|---|
| | CHEMICALS, DRUGS AND MEDICINES |
| 13 | Anti plague serum |
| [1][13A | Bleaching paste and bleaching powder ] |
| [2][14 | Cinchona Bark and the alkaloids extracted therefrom including Quinine ] |
| [3][14A | Magnesium Chloride ] |
| [4][1][14B] | Sulphur.] |
| | [1][DYES AND COLOURS. |
| 14C | Dyes derived from coal tar and coal tar derivatives used in any dyeing process ] |
| | HARDWARE, IMPLEMENTS AND INSTRUMENTS |
| 15 | The following agricultural implements namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, [5][ seed and corn crushers ], chaff cutters root cutters, ensilage cutters, horse and bullock gears, ploughs, cultivators scarifiers, harrows, clod crushers seed-drills, hay tedders, [6][hay presses,] [ potatoe diggers, latex spouts, spraying machines,] and rakes, also agricultural tractors, also component parts of these implements [7][machines] or tractors, provided that they can be readily fitted into their proper places in the implements, [7][ machines] or tractors for which they are imported and that they cannot ordinarily be used for purposes unconnected with agriculture |
| 16 | [illegible] and that they cannot ordinarily be used for other than dairy purposes |
| 17 | Instruments, apparatus and appliances imported by a passenger as part of his personal baggage and *in actual use by him in the exercise of his profession or calling* |
| 18 | Water lifts, sugar mills oil-presses and parts thereof, when constructed so that they can be worked by manual or animal power |
| | [1][MACHINERY |
| 18A | [illegible] specified — [illegible] ame, portable [illegible] and tractors) [illegible] ble from the operative parts ; |

[1] These items were inserted by s 2 and Sch of Act 21 of 1927

[2] Item 14 was substituted by s. 3 (1) and 1st Schedule of the Indian Finance Act 1923

[3] This item was inserted by s. 2 and Sch of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)

[4] No "14A" was re-numbered No "14B" by s 2 and Sch of Act 21 of 1927

[5] These words were substituted for "seed-crushers" by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)

[6] These words were inserted by s. 2 and Sch of Act 17 of 1926

[7] These words were inserted by s. 2 and Sch. of Act 11 of 1925

## SCHEDULE II.—Import Tariff—*contd.*

### Part I—*contd.*

### Articles which are free of duty—*contd.*

| No. | Names of Articles. |
|---|---|
| | (2) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; |
| | (3) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose; |
| | (4) control gear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials and driving chains, but excluding driving ropes not made of cotton; |
| | (5) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not; and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof. |
| | *Note.*—The term 'industrial system' used in sub-clause (3) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity. |
| 18B | The following Textile Machinery and Apparatus by whatever power operated, namely, healds, *heald cords and heald knitting needles*; reeds and shuttles; warp and weft preparation machinery and looms; bobbins and pirns; dobbies; Jacquard machines; Jacquard harness linen cards; Jacquard cards; punching plates for Jacquard cards; warping mills; multiple box sleys; solid border sleys; tape sleys; swivel sleys; tape looms; wool carding machines; wool spinning machines; hosiery machinery; coir mat shearing machines; coir fibre willowing machines; heald knitting machines; dobby cards; lattices and lags for dobbies; wooden winders; silk looms; silk throwing and reeling machines; cotton yarn reeling machines; sizing machines; doubling machines; silk twisting machines; cone winding machines; piano card cutting machines; harness building frames; card lacing frames; drawing and denting hooks; sewing thread balls making machines; cumbli finishing machinery; hank boilers; cotton carding and spinning machines; mail eyes, lingoes, comber boards and comber board frames; take-up motions; temples and pickers; picking bands; picking sticks; printing machines; roller cloth; clearer cloth; sizing flannel; and roller skins. |
| 18C | Printing and Lithographic Material, namely: presses, aluminium lithographic plates, composing sticks, chases, imposing tables, lithographic stones, stereo-blocks, wood blocks, half-tone blocks, electrotype blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead and rule cutters, type casting machines, type setting and casting machines, rule bending machines, rule mitreing machines, bronzing machines, stereotyping apparatus, paper folding machines, and paging machines, but excluding ink and paper. |
| 18D | Component Parts of Machinery, as defined in Nos. 18A, 18B and 18C, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose:<br><br>Provided, that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable.] |

## SCHEDULE II.—IMPORT TARIFF—*contd.*

### PART I—*concld.*

### Articles which are free of duty—*concld.*

| No | Names of Articles |
|---|---|
| | METALS |
| 19 | CURRENT NICKEL, BRONZE, and COPPER COIN of the Government of India. |
| 20 | GOLD and SILVER BULLION and coin |
| [1][20A | ZINC, unwrought, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes, and broken zinc ] |
| | PAPER |
| 21 | TRADE CATALOGUES AND ADVERTISING CIRCULARS imported by packet, book, or parcel post |
| [2][21A | Postage Stamps, whether used or unused ] |
| | YARNS AND TEXTILE FABRICS |
| 22 | SECOND HAND OR USED GUNNY BAG [3][ or cloth ] made of jute |
| | MISCELLANEOUS |
| 23 | ART, the following works of —(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put up in a public place including the materials used or to be used in their construction, whether worked or not |
| 24 | BOOKS, printed, including covers for printed books, maps, charts, and plants, proofs, *music and manuscripts* |
| [4][24A | Ropes, cotton |
| 24B | Starch and farina ] |
| | *IV.—Miscellaneous and unclassified—* |
| 25 | ANIMALS, living, all sorts |
| 26 | SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE and medals and antique coins |

### PART II.

### Articles which are liable to [5][non-protective] duty at special rates.

| No | Names of Articles | Unit or method of assessment | Rate of duty |
|---|---|---|---|
| | *I.—Food, Drink and Tobacco—* | | Rs A |
| | FISH. | | |
| 27 | FISH, SALTED, wet or dry | Indian maund of 82 2/7 lbs avoirdupois weight | Such rate or rates of duty not exceeding one rupee as the Governor General in Council may, by notification in the Gazette of India from time to time prescribe |

[1] Item 20A was inserted by s 2 (2) and Sch of the Steel Industry (Protection) Act, 1927 (3 of 1927)

[2] Item 21A was inserted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)

[3] These words were inserted by *ibid.*

[4] These items were inserted by s 2 and Sch of Act 21 of 1927

[5] These words were inserted by s 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927)

## SCHEDULE II.—Import Tariff—*contd.*

### Part II—*contd.*

Articles which are liable to [1][non-protective] duty at special rates—*contd.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|---|---|---|---|
| | LIQUORS. | | Rs. A. |
| 28 | Ale, Beer, Porter, Cider and other fermented liquors. | Imperial gallon or 6 quart bottles. | Eight annas. |
| 29 | [2][Denatured spirit] | *Ad valorem* | 7½ per cent. |
| 30 | Perfumed Spirits | Imperial gallon or 6 quart bottles. | 36 2 [3][or 15 per cent. *ad valorem*, whichever is higher.] |
| 31 | Liqueurs, Cordials, Mixtures and other preparations containing spirit— | | |
| | (*a*) Entered in such a manner as to indicate that the strength is not to be tested. | Ditto | 30 0 [3][or 15 per cent. *ad valorem*, whichever is higher.] |
| | (*b*) If tested | Imperial gallon or 6 quart bottles of the strength of London proof. | 21 14 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof [3][or 15 per cent. *ad valorem*, whichever is higher]. |
| 32 | All other sorts of Spirit | Ditto | Ditto. |
| 33 | Wines— | | |
| | Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit. | Imperial gallon or 6 quart bottles. | 9 0 |
| | All other sorts of wines not containing more than 42 per cent. of proof spirit: | Ditto | 4 8 |
| | Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to "All other sorts of Spirit." | | |

[1] These words were inserted by s. 2 (*2*) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927).

[2] These words were substituted for the words "Spirit, which has been rendered effectually and permanently unfit for human consumption" by s. 3 (*1*) and 1st Schedule of the Indian Finance Act, 1923.

[3] These words and figures were added by s. 3 (*1*) and 1st Sch., *ibid.*

SCHEDULE II.—IMPORT TARIFF—*contd.*

PART II—*contd*

Articles which are liable to [1][non-protective] duty at special rates—*contd*

| No | Names of Articles | Unit or method of assessment | Rate of duty |
|---|---|---|---|
| | | | Rs A |
| | SUGAR | | |
| [2][34 | SUGAR, excluding confectionery (*see* No 124)— | | |
| | (1) Sugar, crystallised or soft 23 Dutch Standard and above | cwt | 4 8 |
| | (2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard | cwt | 4 0 |
| | (3) Sugar, below 8 Dutch Standard, molasses and sugar candy | *Ad valorem* | 25 per cent ] |
| | [3][SACCHARINE ] | | |
| [3][34A | SACCHARINE (except in tablets) | Pound . . | [4] 5 0 ] |
| [3][34B | SACCHARINE TABLETS | *Ad valorem* | [4][15 per cent or Rs. 5 per pound of Saccharine contents, whichever is higher ] |
| | OTHER FOOD AND DRINK. | | |
| 35 | SALT, excluding salt exempted under No 2 | Indian maund of 82⅐ lbs avoirdupois weight | The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place |
| | TOBACCO | | |
| [5][36 | TOBACCO, unmanufactured . . | Pound . . . | 1 8] |
| 37 | CIGARS [6]* * * . . . . . | *Ad valorem* . . | 75 per cent. |

[1] These words were inserted by s 2(2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927)

[2] This item was substituted by s. 2 and Sch of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)

[3] Items 34A, 34B and the heading thereto were inserted by s. 3(1) and Sch. I of the Indian Finance Act, 1923

[4] Substituted by s. 2 of the Indian Tariff (Amendment) Act, 1926 (17 of 1926)

[5] This item was substituted by s 4 and Sch II of the Indian Finance Act, 1927 (5 of 1927)

[6] The words "and Cigarettes" were omitted by s. 2 and Sch of Act 14 of 1925.

## SCHEDULE II.—Import Tariff—*contd.*

### Part II—*contd.*

Articles which are liable to [1][non-protective] duty at special rates—*contd.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|---|---|---|---|
| | TOBACCO—*contd.* | | |
| [2][37-A | Cigarettes of value— | | Rs. A. |
| | (*a*) not exceeding Rs. 10-8 per thousand. | Thousand . . | 7 0 |
| | (*b*) exceeding Rs. 10-8 per thousand. | Thousand . . | 10 8] |

[Note.—For the purposes of this item, 'value' means real value as defined in section 30 of the Sea Customs Act, 1878, provided that the amount to be deducted on account of duties payable on importation to determine the real value in accordance with the provisions of clause (*a*) of the said section shall be Rs. 7 per thousand.]

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|---|---|---|---|
| 38 | All other sorts of Tobacco manufactured. | Pound . . . | Rs. A. 2 4 |
| | *II.—Raw Materials and produce and articles mainly unmanufactured—* | | |
| | COAL, COKE AND PATENT FUEL. | | |
| 39 | Coal, Coke and patent fuel . | Ton . . . | 0 8 |
| | [3][METALS.] | | |
| [3][39A | Tin, block . . . . . | Ton . . . | 250 0] |
| | OILS. | | |
| 40 | Kerosene, [4]*** also any mineral oil other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test. | Imperial gallon . | Two annas and six pies. |
| | [4]* * * | | |
| [5][40A | Motor Spirit . . . . | Imperial gallon . | Four annas.] |

[1] These words were inserted by s. 2 (*2*) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927).
[2] Inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).
[3] Item 39A and the heading thereto were inserted by s. 2 (2) and Sch. of the Steel Industry (Protection) Act, 1927 (3. of 1927).
[4] The words " and Motor Spirit " and the Note to Item 40 were omitted by s. 3 and Sch. I of the Indian Finance Act, 1925 (13 of 1925).
[5] Item 40-A was inserted by s. 3 and Sch. I, *ibid.*

SCHEDULE II —IMPORT TARIFF—*contd.*

PART II—*contd.*

Articles which are liable to [1][non-protective] duty at special rates—*contd.*

| No | Names of Articles | Unit or method of assessment | Rate of duty |
|---|---|---|---|
| | OILS—*contd* | | Rs A |
| [2][41 | MINERAL OIL— (1) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is ordinarily used for the batching of jute or other fibre, | Ton | 10 0 |
| | (2) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is such as is not ordinarily used for any other purpose than for lubrication, | Imperial gallon | One anna and four pies. |
| | (3) which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purposes | *Ad valorem* | 7½ per cent ] |
| | *III —Articles wholly or mainly manufactured—* | | |
| | ARMS, AMMUNITION AND MILITARY STORES | | |
| 42 | Subject to the exemptions specified in No 12— | | |
| | [3][(1) Firearms, including gas and air guns, gas and air rifles and gas and air pistols, not otherwise specified (*see* Nos 86A and 141) | Each . . . | Rs 15 or 30 per cent *ad valorem*, whichever is higher ] |
| | (2) Barrels for the same, whether single or double | „ . . | 15 or 30 per cent *ad valorem* whichever is higher |
| | [4]* * * * | | |
| | [4]* * * * | | |

[1] These words were inserted by s 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927)
[2] Item 41 was substituted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1926 (17 of 1926)
[3] Sub head (1) was substituted by s 2 and Sch, *ibid*
[4] Original sub heads (3) and (4) were omitted by s 2 and Sch, *ibid*

SCHEDULE II.—IMPORT TARIFF—*contd.*

PART II—*contd.*

Articles which are liable to [1][non-protective] duty at special rates—*contd.*

| No. | Names of Articles. | Unit or method of assessment. | Rate of duty. |
|---|---|---|---|
| | ARMS, AMMUNITION AND MILITARY STORES—*contd.* | | Rs. A. |
| | [2][(3)] Main springs and magazine springs for firearms, including [3][gas guns, gas rifles and gas pistols.] | Each . . . | 5 } or 30 per cent. *ad valorem*, whichever is higher. |
| | [2][(4)] Gun stocks and breech blocks. | " . . . | 3 } or 30 per cent. *ad valorem*, whichever is higher. |
| | [2][(5)] Revolver-cylinders, for each cartridge they will carry. | " . . . | 2 } or 30 per cent. *ad valorem*, whichever is higher. |
| | [2][(6)] Actions (including skeleton and waster) breech bolts and their heads, cocking pieces, and locks for muzzle loading arms. | " . . . | 1 } or 30 per cent. *ad valorem*, whichever is higher. |
| | [2][(7)] Machines for making, loading or closing cartridges for rifled arms. | *Ad valorem* . . | 30 per cent. |
| | [2][(8)] Machines for capping cartridges for rifled arms. | *Ad valorem* . . | 30 per cent. |
| | [4][CARRIAGES AND CARTS.] | | |
| [4][42A | MOTOR CARS, motor cycles, and motor scooters, and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in No. 87 shall be dutiable at the rate of duty specified for such articles. | *Ad valorem* . . | 20 per cent.] |
| | CHEMICALS, DRUGS AND MEDICINES. | | |
| 43 | Opium and its alkaloids and their derivatives. | Seer of 80 tolas . | [5][24 0 or 15 per cent. *ad valorem*, whichever is higher.] |

[1] These words were inserted by s. 2 (*2*) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927).

[2] Original sub-heads (5) to (10) were renumbered as (3) to (8) by s. 2 and Sch. of Act 17 of 26.

[3] These words were substituted for the words "gas guns and rifles" by s. 2 and Sch., *ibid.*

[4] Item 42A and the heading thereto were inserted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927).

[5] These words and figures were substituted by s. 3 (*1*) and 1st Schedule of the Indian Finance Act, 1923.

## SCHEDULE II.—IMPORT TARIFF—*contd.*

### PART II—*concld*

### Articles which are liable to [1][non-protective] duty at special rates—*concld*

| No | Names of Articles | Unit or method of assessment | Rate of duty |
|---|---|---|---|
| | YARNS AND TEXTILE FABRICS | | |
| [2][43A | Artificial silk yarn and thread | *Ad valorem* | 7½ per cent ] |
| 44 | COTTON TWIST and YARN, and COTTON SEWING or DARNING THREAD | *Ad valorem* | 5 per cent [3] [or 1½ annas per pound whichever is higher] |
| 45 | COTTON PIECE GOODS | *Ad valorem* | 11 per cent. |
| [4][45A | Silk mixtures that is to say—<br>(*a*) fabrics composed in part of some other textile than silk and in which any portion either of the warp or of the weft but not of both is silk<br>(*b*) fabrics not being silk on which silk is superimposed such as embroidered fabrics,<br>(*c*) articles made from such fabrics and not otherwise specified (*see* No 100A) | *Ad valorem* | 20 per cent ] |
| | MISCELLANEOUS | | |
| 46 | MATCHES—<br>(1) In boxes containing on the average not more than 100 matches<br>(2) In boxes containing on the average more than 100 matches | <br>Per gross of boxes<br><br>For every 25 matches or fraction thereof in each box, per gross of boxes | Rs A<br>1 8<br><br>0 6 |
| [5][46A | Undipped SPLINTS such as are ordinarily used for match making | Pound | Four annas and six pies ] |
| [5][46B | VENEERS such as are ordinarily used for making match boxes including boxes and parts of boxes made of such veneers | Pound | Six annas ] |
| [6][46C | PORTLAND CEMENT | Ton | Rs 9 ] |
| [6][46D | PRINTER'S INK | *Ad valorem* | 5 per cent ] |

[1] These words were inserted by s 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927)

[2] This item was inserted by s 2 and Sch of Act 24 of 1927

[3] These words and figures were inserted by s 2(*1*) of Act 23 of 1927 (To have effect up to 31st March 1930 )

[4] Item 45A was inserted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)

[5] These items were inserted by s 3 and 1st Schedule of the Indian Finance Act, 1924.

[6] These items were inserted by s 2 and Sch. of the Indian Tariff (Amendment) Act, 1926 17 of 1926).

## SCHEDULE II.—Import Tariff—*contd.*

### Part III.

Articles which are liable to duty at 2½ per cent. *ad valorem.*

| No. | Names of Articles. |
|---|---|
| | *I.—Food, Drink and Tobacco—* |
| | [1]* * * * * |
| 1* | * * * * * |
| | PROVISIONS AND OILMAN'S STORES. |
| 48 | Vinegar in casks. |
| | *II.—Raw materials and produce and articles mainly unmanufactured—* |
| | WOOD AND TIMBER. |
| 49 | Firewood. |
| | *III.—Articles wholly or mainly manufactured—* |
| | CHEMICALS, DRUGS AND MEDICINES. |
| 50 | Copperas, green. |
| | [2]* * * * * |
| 2* | * * * * * |
| | [3]* * * * * |
| 3* | * * * * * * * * * |
| | MISCELLANEOUS. |
| 53 | Aeroplanes, aeroplane parts, aeroplane engines, [4] * aeroplane engine parts [4][and rubber tyres and tubes used exclusively for aeroplanes]. |
| [5][54 | The following printing material, namely, type, leads, brass rules, wooden and metal quoins, shooting sticks and galleys and metal furniture.] |
| 55 | Racks for the withering of tea leaf. |
| 6* | * * * * * |
| 57 | Fodder, bran and pollards. |

[1] Item No. 47 and the heading thereto were omitted by s. 3 and Sch. I of the Indian Finance Act, 1925 (13 of 1925).

[2] Items 51, 51A and 51B and the heading thereto were omitted by s. 2 and Sch. of Act 24 of 1927.

[3] Item 52 and the heading thereto were omitted by s. 3 (*1*) and 1st Schedule of the Indian Finance Act, 1923.

[4] The word "and" was omitted and the words in brackets inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).

[5] This item was substituted by s. 2 and Sch. of Act 24 of 1927.

[6] Item 56 was omitted by s. 3 (*1*) and 1st Schedule of the Indian Finance Act, 1923.

SCHEDULE II.—IMPORT TARIFF—*contd.*

PART IV.

Articles which are liable to duty at 10 per cent *ad valorem.*

| No | Names of Articles |
|---|---|
| | *II.—Raw materials and produce and articles mainly unmanufactured—* |
| | METALLIC ORES AND SCRAP IRON OR STEEL FOR RE-MANUFACTURE |
| 58 | IRON OR STEEL, old |
| | *III.—Articles wholly or mainly manufactured—* |
| | HARDWARE, IMPLEMENTS AND INSTRUMENTS. |
| 59 | TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by, or under the orders of, a Railway Company |
| | [1][ METALS—IRON AND STEEL. ] |
| [1][60 | IRON alloys |
| | IRON angle, channel and tee not otherwise specified (*see* No 143) |
| | IRON bar and rod not otherwise specified (*see* No 144) |
| | IRON pig |
| | IRON rice bowls |
| 61 | IRON OR STEEL anchors and cables |
| | IRON OR STEEL bolts and nuts, including hook bolts and nuts for roofing |
| | IRON OR STEEL hoops and strips |
| | IRON OR STEEL nails, rivets and washers, all sorts, not otherwise specified (*see* No 145) |
| | IRON OR STEEL pipes and tubes, also fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like, excluding pipes, tubes and fittings therefor otherwise specified (*see* No 146) |
| | IRON OR STEEL railway track material not otherwise specified (*see* Nos 63 and 150) including bearing plates, cast iron sleepers and fastenings therefor, and lever boxes |
| | IRON OR STEEL tramway track material, not otherwise specified (*see* No 150), including rails, fish plates, tiebars, switches crossings and the like materials of shapes and sizes specially adapted for tramway tracks |
| | IRON OR STEEL sheets (including cuttings, discs and circles) under ½ inch thick, whether fabricated or not, if coated with metals other than tin or zinc |
| | IRON OR STEEL plates and sheets (including cuttings, discs and circles) not under ½ inch thick, not otherwise specified (*see* Nos 146, 147, 153 and 154), whether fabricated or not |
| | IRON OR STEEL barbed or stranded fencing wire and wire rope |

[1] Items 60, 61 and 62 and the heading thereto were substituted by s 2 (2) and Sch of the Steel Industry (Protection) Act, 1927 (3 of 1927)

SCHEDULE II.—IMPORT TARIFF—*contd.*

PART IV—*contd.*

Articles which are liable to duty at 10 per cent. *ad valorem*—*contd.*

| No. | Names of Articles. |
| --- | --- |
| | METALS—IRON AND STEEL—*contd.* |
| | IRON OR STEEL (other than bar or rod) specially designed for the re-inforcement of concrete. |
| | IRON OR STEEL expanded metal. |
| 62 | STEEL, angle and tee if galvanized, tinned or lead-coated. |
| | STEEL (other than bars), alloys, crucible, shear, blister and tub. |
| | STEEL (other than bars) made for springs and cutting tools by any process. |
| | STEEL, ingots, blooms, and billets, and slabs of a thickness of 1½ inches or more. |
| | STEEL, bar and rod, the following kinds—<br>(a) shapes specially designed for the re-inforcement of concrete, if the smallest dimension is under ½ inch;<br>(b) all shapes and sizes, if—<br>(i) of alloy, crucible, shear, blister or tub steel, or<br>(ii) galvanized or coated with other metals, or<br>(iii) planished or polished, including bright steel shafting;<br>(c) other qualities, if of any of the following shapes and sizes—<br>(i) rounds under ½ inch diameter,<br>(ii) squares under ½ inch side,<br>(iii) flats, if under 1 inch wide and not over ½ inch thick,<br>(iv) flats not under 8 inches wide and not over ½ inch thick,<br>(v) ovals, if the dimension of the major axis is not less than twice that of the minor axis,<br>(vi) all other shapes, any size.] |
| | [1][ RAILWAY PLANT AND ROLLING-STOCK.] |
| [1][ 63 | RAILWAY MATERIALS for permanent-way and rolling-stock, namely, sleepers, other than iron and steel, and fastenings therefor; bearing plates, fish bolts and nuts, chairs, interlocking apparatus, brake-gear, shunting skids, couplings and springs, signals, turn-tables, weighbridges, carriages, wagons, traversers, rail removers, scooters, trollies, trucks, and component parts thereof; switches, crossings and the like materials made of alloy steel; also cranes, water-cranes and water-tank when imported by or under the orders of a railway company: |
| | Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a State in India and also such tramways as the Governor General in Council may, by notification in the Gazette of India, specifically include therein: |

[1] Item 63 and the heading thereto were substituted by s. 2 (2) and Sch. of the Steel Industry (Protection) Act, 1927 (3 of 1927).

## SCHEDULE II.—IMPORT TARIFF—*contd.*

### PART IV—*concld*

Articles which are liable to duty at 10 per cent. *ad valorem—concld.*

| No | Names of Articles |
|---|---|
| | RAILWAY PLANT AND ROLLING STOCK—*contd* |
| | [1][Provided also that articles of machinery as defined in No 18A or No 18D shall not be deemed to be included hereunder] ] |
| [2][63A | COMPONENT PARTS OF RAILWAY MATERIALS, as defined in No 63, namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose |
| | Pr[illegible] |
| 64 | SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections |
| | [3][Provided that articles of machinery as defined in No [4][18A] or No [4][18D] shall, when separately imported, not be deemed to be included hereunder] |

### PART V.

Articles which are liable to duty at 15 per cent *ad valorem.*

| No | Names of Articles |
|---|---|
| | *I —Food, Drink and Tobacco—* |
| | FISH |
| 65 | FISH, excluding salted fish (*see* No 27) |
| 66 | FISHMAWS, including singally and sozille, and sharkfins |
| | FRUITS AND VEGETABLES |
| 67 | FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved |
| | GRAIN, PULSE AND FLOUR |
| 68 | FLOUR [5][except sago flour] |
| | PROVISIONS AND OILMAN'S STORES |
| 69 | PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (*see* No 48) |

## SCHEDULE II.—Import Tariff—*contd.*

### Part V—*contd.*

### Articles which are liable to duty at 15 per cent. *ad valorem*—*contd.*

| No. | Names of Articles. |
|---|---|
| | SPICES. |
| 70 | Spices, all sorts. |
| | TEA. |
| 71 | Tea. |
| | OTHER FOOD AND DRINK. |
| 72 | Coffee. |
| 73 | All other sorts of Food and Drink not otherwise specified. |
| | *II.—Raw materials and produce and articles mainly unmanufactured—* |
| | GUMS, RESINS, AND LAC. |
| 74 | Gums, Resins and Lac, all sorts, [1][not otherwise specified (*see* No. 10B)]. |
| | OILS. |
| 75 | All sorts of animal, essential, mineral, and vegetable non-essential oils not otherwise specified (*see* Nos. 40, [2][40A] and 41). |
| | SEEDS. |
| 76 | Seeds, all sorts, [3][not otherwise specified]. |
| | TALLOW, STEARINE AND WAX. |
| [4][77 | All sorts of stearine, wax, grease and animal fat not otherwise specified.] |
| | TEXTILE MATERIALS. |
| 78 | Textile materials, the following:— Silk waste, and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified. |
| | WOOD AND TIMBER. |
| 79 | Wood and timber, all sorts, not otherwise specified, including all sorts of ornamental wood. |

[1] These words were added by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1926 (17 of 1926).

[2] These figures and letter were inserted by s. 3 and Sch. I of the Indian Finance Act, 1925 (13 of 1925).

[3] These words were substituted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927).

[4] This item was substituted by s. 2 and Sch. of Act 21 of 1927.

## SCHEDULE II —IMPORT TARIFF—*contd.*

### PART V—*contd.*

### Articles which are liable to duty at 15 per cent *ad valorem*—*contd.*

| No | Names of Articles |
|---|---|
| | MISCELLANEOUS |
| 80 | CANES and RATTANS |
| 81 | COWRIES and SHELLS |
| 82 | IVORY, unmanufactured. |
| 83 | PRECIOUS STONES, unset and imported cut (*see* No 5) |
| 84 | All other raw materials and produce and articles mainly unmanufactured not otherwise specified |
| | *III —Articles wholly or mainly manufactured—* |
| | APPAREL |
| 85 | APPAREL, [illegible] uniforms and accoutr[illegible]ed from duty under [illegible] articles made of silk |
| | ARMS, AMMUNITION AND MILITARY STORES |
| 86 | EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts including detonators and blasting fuze |
| [2][86A | ORNAMENTAL ARMS of an obsolete pattern possessing only an antiquarian value, masonic and theatrical and fancy dress swords, provided they are virtually useless for offensive or defensive purposes, and *dahs* intended exclusively for domestic, agricultural and industrial purposes ] |
| | [4][CONVEYANCES ] |
| [4][87 | [5][CONVEYANCES not specified in No 142, namely] tramcars, motor omnibuses, motor lorries, motor vans, passenger lifts, carriages, carts, jinrikshas, bath chairs, perambulators, trucks wheelbarrows, bicycles, tricycles and all other sorts of conveyances not otherwise specified, and component parts and accessories thereof, except such parts and accessories of the motor vehicles above mentioned as are also adapted for use as parts or accessories of motor cars, motor cycles or motor scooters (*see* No [6][42A]) ] |

[1] These words were inserted by s 2 and Sch of Act 14 of 1925

[2] These words and figures were substituted by s 2 and Sch *ibid*

[3] Item 86A was inserted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1926 (17 of 1926)

[4] Item 87 and the heading thereto were substituted by s 3 (*1*) and 1st Schedule of the Indian Finance Act, 1923

[illegible]

## SCHEDULE II.—Import Tariff—*contd.*

### Part V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem*—*contd.*

| No. | Names of Articles. |
|---|---|
| | YARNS AND TEXTILE FABRICS—*contd.* |
| [1][100A | Silk goods used or required for medical purposes, namely :— Silk ligatures; elastic silk hosiery, elbow pieces, thigh pieces, knee caps, leggings, socks, anklets, stockings, suspensory bandages, silk abdominal belts, silk web catheter tubes, and oiled silk.] |
| | MISCELLANEOUS. |
| 101 | Art, works of, excluding those specified in No. 23. |
| 102 | Brushes and Brooms. |
| 103 | Building and Engineering materials, including asphalt, bricks, cement [2][other than Portland cement], chalk and lime clay, pipes of earthenware, tiles, [3][fire-bricks not being component parts of any article included in No. [4][18A] or No. 63] and all other sorts of building and engineering materials not otherwise specified [5][including bitumen and other insulating materials]. |
| 104 | Candles. |
| 105 | Cinematograph films. |
| 106 | Cordage and rope and twine of vegetable fibre [5][not otherwise specified]. |
| [1][106A | Fireworks specially prepared as danger or distress lights for the use of ships]. |
| 107 | Furniture tackle and apparel, not otherwise described, for steam-sailing, rowing and other vessels. |
| 108 | Mats and Matting. |
| 109 | Oilcakes. |
| 110 | Oilcloth and Floor cloth. |
| 111 | Packing—Engine and Boiler—all sorts, excluding packing forming a component part of any article included in Nos. [4][18A] and 63. |
| 112 | Perfumery, not otherwise specified. |
| 113 | Pitch, tar and dammer. |
| 114 | Polishes and compositions. |
| 115 | Rubber tyres and other manufactures of rubber, not otherwise specified (see [6][No. 53]). |

[1] This item was inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).

[2] These words were inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1926 (17 of 1926).

[3] These words were inserted by s. 3 (*1*) and Schedule I of the Indian Finance Act, 1923.

[4] These figures and letter were substituted for the figures "51" by s. 2 and Sch. of Act 24 of 1927.

[5] These words were inserted by s. 2, *ibid.*

[6] This word and figures were substituted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927).

## SCHEDULE II.—Import Tariff—*contd.*

### Part V—*concld.*

Articles which are liable to duty at 15 per cent *ad valorem*—*concld.*

| No | Names of Articles |
|---|---|
| | MISCELLANEOUS—*contd* |
| 116 | Soap |
| [1]* | * * * |
| 118 | Stone and Marble, and articles made of stone and marble |
| 119 | Toilet requisites, not otherwise specified |
| 120 | All other articles wholly or mainly manufactured, not otherwise specified |
| | *IV.—Miscellaneous and unclassified—* |
| 121 | Coral |
| 122 | Umbrellas, includind parasols and sunshades, and fittings therefor |
| 123 | All other articles not otherwise specified, including articles imported by post |

### Part VI

Articles which are liable to duty at 30 per cent *ad valorem*

| No | Names of Articles |
|---|---|
| | *I.—Food, Drink and Tobacco—* |
| 124 | Confectionery |
| | *II.—Articles wholly or mainly manufactured—* |
| | ARMS, AMMUNITION AND MILITARY STORES |
| 125 | Gunpowder for cannons, rifles, guns, pistols and sporting purposes |
| 126 | Subject to the exemptions specified in No. 12 all articles other than those specified in [[2]entries Nos. 42, 86 A and 141] which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (excluding springs used for air guns [illegible] for the purposes of this Act |
| [3]* | * * * * * * * * |

[1] Item 117 was omitted by s. 2 and Sch. of Act 24 of 1927.

[2] [illegible] "... No. 42" by

Indian Fi

## SCHEDULE II.—Import Tariff—*contd.*

### Part VII—*contd.*

### Articles which are liable to protective duty at special rates—*contd.*

| No. | Names of Articles. | Rate of duty. |
|---|---|---|
| | METALS—IRON AND STEEL—*contd.* | |
| | (*b*) not galvanized— | |
| | (*i*) not under $\frac{1}{8}$ inch thick— | |
| | of British manufacture . . . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | not of British manufacture . . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton. |
| | (ii) under $\frac{1}{8}$ inch thick— | |
| | of British manufacture . . . . | Rs. 39 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | not of British manufacture . . . | Rs. 39 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 26 per ton. |
| 147 | Iron or Steel plates or sheets (including cuttings, discs, and circles) not under $\frac{1}{8}$ inch thick and not of cast iron— | |
| | (*a*) fabricated, all qualities— | |
| | (i) of British manufacture . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | (ii) not of British manufacture . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton. |
| | (*b*) not fabricated, chequered and ship, tank, bridge and common qualities— | |
| | (i) of British manufacture . . . | Rs. 20 per ton. |
| | (ii) not of British manufacture . . . | Rs. 36 per ton. |
| 148 | Iron or Steel sheets (including cuttings, discs and circles) under $\frac{1}{8}$ inch thick— | |
| | (*a*) fabricated— | |
| | (i) galvanized . . . . . . | Rs. 33 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | (ii) all other sorts not otherwise specified (*see* No. 61)— | |
| | of British manufacture . . . . | Rs. 39 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | not of British manufacture . . . | Rs. 39 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 26 per ton. |

## SCHEDULE II —IMPORT TARIFF—*contd.*

### PART VII—*contd*

### Articles which are liable to protective duty at special rates—*contd.*

| No | Names of Articles | Rate of duty |
|---|---|---|
| | METALS—IRON AND STEEL—*contd* | |
| | (*b*) not fabricated— | |
| | (i) galvanized | Rs 50 per ton. |
| | (ii) all other sorts not otherwise specified (*see* Nos 61 and 154)— | |
| | of British manufacture | Rs 35 per ton |
| | not of British manufacture | Rs 59 per ton |
| 149 | IRON OR STEEL WIRE, other than barbed or stranded fencing wire, wire rope or wire netting | Rs 60 per ton |
| 149A | IRON OR STEEL, the original material (but not including machinery, [1] * * * ) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for reassembly in India | Rs 23 per ton or 10 per cent *ad valorem*, whichever is higher. |
| | Provided that articles dutiable under this item shall not be deemed to be dutiable under any other item | |
| 150 | IRON OR STEEL RAILWAY TRACK MATERIAL— | |
| | A Rails (including tramway rails the heads of which are not grooved)— | |
| | (*a*) (i) 30 lbs per yard and over | Rs 13 per ton |
| | (ii) fish plates therefor | Rs 6 per ton or 10 per cent *ad valorem*, whichever is higher |
| | (iii) spikes and tie bars therefor— | |
| | of British manufacture | Rs 26 per ton |
| | not of British manufacture | Rs 37 per ton. |
| | (*b*) under 30 lbs per yard, and fish plates spikes and tie bars therefor— | |
| | if of British manufacture | Rs 26 per ton |
| | if not of British manufacture | Rs 37 per ton. |
| | B Switches and crossings and the like materials not made of alloy steel, including switches and crossings and the like materials for tramway rails the heads of which are not grooved— | |
| | (i) for rails 30 lbs per yard and over | Rs 14 per ton or 17 per cent. *ad valorem*, whichever is higher |

[1] The words and figures '*see* Nos 51 and 51A' were omitted by s 2 and Sch of Act 24 of 1927

## SCHEDULE II.—IMPORT TARIFF—*contd.*

### PART VII—*contd.*

### Articles which are liable to protective duty at special rates—*contd.*

| No. | Names of Articles. | Rate of duty. |
|---|---|---|
| | METALS—IRON AND STEEL—*contd.* | |
| | (ii) for rails under 30 lbs. per yard— | |
| | of British manufacture . . . . | Rs. 29 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | not of British manufacture . . . | Rs. 29 per ton or 17 per cent. *ad valorem*, whichever is higher. *plus* Rs. 12 per ton. |
| | C. Sleepers, other than cast iron, and keys and distance pieces and the like for use with such sleepers. | Rs. 10 per ton or 10 per cent. *ad valorem*, whichever is higher. |
| 151 | STEEL, angle and tee, not otherwise specified (*see* No. 62) and beam, channel, zed, trough and piling— | |
| | (*a*) fabricated— | |
| | (i) of British manufacture . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | (ii) not of British manufacture . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton. |
| | (*b*) not fabricated— | |
| | (i) of British manufacture . . . | Rs. 19 per ton. |
| | (ii) not of British manufacture . . . | Rs. 30 per ton. |
| 152 | STEEL, bar and rod, not otherwise specified (*see* No. 62)— | |
| | (i) of British manufacture . . . | Rs. 26 per ton. |
| | (ii) not of British manufacture . . . | Rs. 37 per ton. |
| 153 | STEEL STRUCTURES, fabricated partially or wholly, not otherwise specified, if made mainly or wholly of steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware (*see* No. 90) or any of the articles specified in Nos. [1][18A, 18D,] 64 or 87— | |
| | (i) of British manufacture . . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher. |
| | (ii) not of British manufacture . . . | Rs. 21 per ton or 17 per cent. *ad valorem*, whichever is higher, *plus* Rs. 15 per ton. |

[1] These figures and letters were substituted for the figures and letter "51, 51A" by s. 2 and Sch. of Act 24 of 1927.

## SCHEDULE II.—IMPORT TARIFF—*concld*

### PART VII—*concld*

Articles which are liable to protective duty at special rates—*concld*

| No | Names of Articles | Rate of duty |
|---|---|---|
| | METALS—IRON AND STEEL—*concld* | |
| 154 | STEEL, tinplates and tinned sheets, including tin taggers and cuttings of such plates, sheets or taggers | Rs 48 per ton ] |

[1][ PAPER PASTEBOARD AND STATIONERY.]

| No | Names of Articles | Unit or method of assessment | Rate of duty |
|---|---|---|---|
| [2][155 | PRINTING PAPER (excluding chrome, marble, flint, poster and stereo) all sort which contain no mechanical wood pulp or in which the mechanical wood pulp amounts to less than 65 per cent of the fibre content | Pound | One anna |
| 156 | WRITING PAPER— | | |
| | (a) Ruled or printed forms (including letter paper with printed headings) and account and manuscript books and the binding thereof | Pound . | One anna or 15 per cent *ad valorem*, whichever is higher |
| | (b) All other sorts . . . . | " | One anna ] |

## [3]SCHEDULE III —EXPORT TARIFF.

| No | Names of Articles | Per | Rate of duty |
|---|---|---|---|
| | | | Rs. A. |
| | JUTE, other than Bimlipatam jute . | | |
| [4][1 | RAW JUTE— | | |
| | (1) Cuttings | Bale of 400 lbs . | 1 4 |
| | (2) All other descriptions . | Ditto | 4 8 ]. |
| [5][2 | JUTE MANUFACTURES, when not in actual use as coverings, receptacles or bindings, for other goods— | | |
| | (1) Sacking (cloth, bags, twist, yarn, rope and twine) | Ton of 2,240 lbs . | 20 0 |

[1] This heading and the original items 155 and 156 were inserted by s 2 and Schedule of the Bamboo Paper (Protection) Act, 1925 (25 of 1925)

[2] These items were substituted by s 2 and Sch of Act 20 of 1927, and shall have effect

and V by s 4 and Sch. I of the

iff (Amendment) Act, 1917 (6 of 1917)

[5] Item 2 was substituted by s 3 (ii), *ibid*

SCHEDULE III.—EXPORT TARIFF—*contd.*

| No. | Names of Articles. | Per. | Rate of duty. |
|---|---|---|---|
| | JUTE, other than Bimlipatam jute—*contd.* | | Rs. A. |
| | (2) Hessians and all other descriptions of jute manufactures not otherwise specified. | Ton of 2,240 lbs. . | 32 0] |
| | [1][HIDES AND SKINS.] | | |
| [1][3 | RAW HIDES AND SKINS . . . . | *Ad valorem* . . | [2][5 per cent].] |
| | RICE. | | |
| [3][4] | RICE, husked or unhusked, including rice flour, but excluding rice bran and rice dust, which are free. | Indian maund of $82\frac{2}{7}$ lbs. avoirdupois weight. | 0 3 |
| | [4]* * | | |
| [4]* | * * * * | * | * |

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[1] Item 3 and the heading thereto were inserted by s. 3 of the Indian Tariff (Amendment) Act, 1919 (19 of 1919),

[2] Substituted by s. 3 (*2*) of the Indian Finance Act, 1923.

[3] This item was renumbered by Act 19 of 1919.

[4] Item No. 5, as renumbered by *ibid*, and the heading thereto were omitted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927).

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|---|---|---|---|
| | JUTE, other than Bimlipatam jute—*contd.* | | Rs. A. |
| | (2) Hessians and all other descriptions of jute manufactures not otherwise specified. | Ton of 2,240 lbs. | 32 0] |
| | [1][HIDES AND SKINS.] | | |
| [1][3 | RAW HIDES AND SKINS | *Ad valorem* | [2][5 per cent].] |
| | RICE. | | |
| [3][4] | RICE, husked or unhusked, including rice flour, but excluding rice bran and rice dust, which are free. | Indian maund of 82 2/7 lbs. avoirdupois weight. | 0 3 |
| | [4]* * | | |
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## ACT No. IX OF 1894.[1]

[*22nd March, 1894.*]

# An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Title, extent and commencement.

**1.** (*1*) This Act may be called the Prisons Act, 1894.

(*2*) It extends to the whole of British India, inclusive of [2] * * * British Baluchistan, the Sonthal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force on the first day of July, 1894.

(*4*) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of [3] Bombay Act II of 1874, as amended by subsequent enactments.

[4]**2.** (*1*) On and after the said first day of July, 1894, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof.

(*2*) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

(*3*) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

**3.** In this Act—

(*1*) "prison" means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the deten-

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1894, Pt. V, p. 14; for Report of the Select Committee, *see ibid*, p. 63, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 10, 21, 93, 126 and 139.

The Act was declared in force in Upper Burma, by the Burma Laws Act, 1898 (13 of 1898), Bur. Code; in the Sonthal Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3, B. & O. Code, Vol. I.

The Act has been declared to be in force in the District of Angul, by the Angul Laws Regulation, 1913 (3 of 1913), B. & O. Code, Vol. I.

[2] The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (13 of 1898), *see* the Fifth Schedule, Bur. Code.

[3] Bom. Code, Vol. II.

[4] So much of this section and of the Schedule as relates to the Upper Burma Laws Act, 1886 (20 of 1886), has been repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

tion of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(*a*) any place for the confinement of prisoners who are exclusively in the custody of the police

(*b*) any place specially appointed by the Local Government under section 541 of the [1] Code of Criminal Procedure, 1882 or

(*c*) any place which has been declared by the Local Government, by general or special order to be a subsidiary jail

(*2*) " criminal prisoner " means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court martial

(*3*) " convicted criminal prisoner " means any criminal prisoner under sentence of a Court or Court martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882,[1] or under the Prisoners Act, 1871

(*4*) " civil prisoner " means any prisoner who is not a criminal prisoner

(*5*) " remission system " means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails

(*6*) " history ticket " means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder

(*7*) " Inspector General " means the Inspector General of Prisons

(*8*) " Medical Subordinate " means an Assistant Surgeon, Apothecary or qualified Hospital Assistant and

(*9*) " prohibited article " means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act

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## CHAPTER II

### MAINTENANCE AND OFFICERS OF PRISONS

**4** The Local Government shall provide for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners — *Accommodation for prisoners*

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[1] *See* now the Code of Criminal Procedure 1898 (Act 5 of 1898)

Inspector General.

**5.** An Inspector General [1] shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of prisons.

[2]**6.** For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary:

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

Temporary accommodation for prisoners.

**7.** Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

## CHAPTER III.

### DUTIES OF OFFICERS.

*Generally.*

Control and duties of officers of prisons.

**8.** All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60.

Officers not to have business dealings with prisoners.

**9.** No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to be interested in prison-contracts.

**10.** No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor shall he derive any benefit, directly or

[1] For notification appointing an Inspector General for the N.-W. F. P., *see* Gazette if India, 1901, Pt. II, p. 1305, and for Coorg, *see* Coorg R. and O., for Delhi, *see* Gazette of India, 1912, Pt. I, p. 1105.

[2] A further proviso has been added to s. 6 in its application to the Punjab by s. 2 of Punj. Act 9 of 1926.

indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner

*Superintendent*

**11** (*1*) Subject to the orders of the Inspector General the Superintendent shall manage the prison in all matters relating to discipline labour expenditure, punishment and control

Superintendent.

(*2*) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than a central prison or a prison situated in a presidency town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate and shall report to the Inspector General all such orders and the action taken thereon

**12** The Superintendent shall keep or cause to be kept the following records —

Records to kept by Superintendent

(*1*) a register of prisoners admitted
(*2*) a book showing when each prisoner is to be released
(*3*) a punishment book for the entry of the punishments inflicted on prisoners for prison offences
(*4*) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison
(*5*) a record of the money and other articles taken from prisoners,

and all such other records as may be prescribed by rules under section 59 or section 60

*Medical Officer*

**13** Subject to the control of the Superintendent the Medical Officer shall have charge of the sanitary administration of the prison and shall perform such [1] duties as may be prescribed by rules made by the Local Government under section 60

Duties of Medical Officer

**14** Whenever the Medical Officer has reason to believe that the mind of a prisoner is or is likely to be injuriously affected by the discipline or treatment to which he is subjected the Medical Officer shall report the case in writing to the Superintendent together with such observations as he may think proper

Medical Officer to report in certain case

This report with the orders of the Superintendent thereon shall forthwith be sent to the Inspector General for information

[1] For rules as to Medical Officer s duties under s 13 *see* different local Rules and Orders

Report on death of prisoner.

**15.** On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:—

(*1*) the day on which the deceased first complained of illness or was observed to be ill,

(*2*) the labour, if any, on which he was engaged on that day,

(*3*) the scale of his diet on that day,

(*4*) the day on which he was admitted to hospital,

(*5*) the day on which the Medical Officer was first informed of the illness,

(*6*) the nature of the disease,

(*7*) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,

(*8*) when the prisoner died, and

(*9*) (in cases where a post-mortem examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

*Jailer.*

Jailer.

**16.** (*1*) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(*2*) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

Jailer to give notice of death of prisoner.

**17.** Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Responsibility of Jailer.

**18.** The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailer to be present at night.

**19.** The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailers.

**20.** Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

### *Subordinate Officers.*

Duties of gate keeper.

**21.** The officer acting as gate keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Subordinate officers not to be absent without leave.

**22.** Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Convict officers.

**23.** Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

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## CHAPTER IV.

### ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

Prisoners to be examined on admission.

**24.** (*1*) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(*2*) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book to be kept by the Jailer, a record of the state of the prisoner's health and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(*3*) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects of prisoners.

**25.** All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and discharge of prisoners.

**26.** (*1*) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(*2*) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(*Chapter XI —Prison offences* )

corded in the punishment book and on the prisoner's history-ticket

(2) change of labour to some more irksome or severe form [1][for such period as may be prescribed by rules made by the Governor General in Council]

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoner not sentenced to rigorous imprisonment,

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor General in Council

(5) the substitution of gunny or other coarse fabric for clothing of other material not being woolen for a period which shall not exceed three months,

(6) imposition of handcuffs of such pattern and weight in such manner and for such period as may be prescribed by rules made by the Governor General in Council

(7) imposition of fetters of such pattern and weight in such manner and for such period, as may be prescribed by rules made by the Governor General in Council,

(8) separate confinement for any period not exceeding [2][three] months,

*Explanation* —Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour s exercise per diem and to have his meals in association with one or more other prisoners,

(9) penal diet,—that is restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week,

(10) cellular confinement for any period not exceeding fourteen days

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement

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[1] These words were inserted by s 2 (*a*) of the Prisons (Amendment) Act, 1925 (17 of 1925)

[2] This word was substituted for the word "six" by s 2 (*b*), *ibid*

*Explanation.*—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

[1]* * * *

[1][(*11*)] penal diet as defined in clause (*9*) combined with [2][cellular] confinement [2]* * * *

[1][(*12*)] whipping, provided that the number of stripes shall not exceed thirty:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

Plurality of punishments under section 46.

[3][**47.** (*1*)] Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:—

(*1*) formal warning shall not be combined with any other punishment except loss of privileges under clause (*4*) of that section;

(*2*) penal diet shall not be combined with change of labour under clause (*2*) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with [3][cellular] confinement;

[3][(*3*) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;]

(*4*) whipping shall not be combined with any other form of punishment except cellular [4][and] separate confinement and loss of privileges admissible under the remission system;

[5][(*5*) no punishment will be combined with any other punishment in contravention of rules made by the Governor General in Council.]

[5][(*2*) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.]

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[1] Original clause (*11*) was repealed and clauses (*12*) and (*13*) were renumbered (*11*) and (*12*), respectively, by s. 2 of Act 17 of 1925.

[2] The word "cellular" was substituted for the word "solitary" and the words "as defined in clause (11)" were omitted by s. 2, *ibid.*

[3] S. 47 was renumbered s. 47 (*1*), in exception (2) the word 'cellular' was substituted for the word 'solitary', and exception (*3*) was substituted by s. 3, *ibid.*

[4] This word was substituted for the word "or" by the Repealing and Amending Act, 1914 (10 of 1914).

[5] Exception (*5*) and sub-section (*2*) were inserted by s. 3 of Act 17 of 1925.

(*Chapter XI —Prison offences* )

Award of punishments under sections 46 and 47

**48.** (*1*) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General

(*2*) No officer subordinate to the Superintendent shall have power to award any punishment whatever

Punishments to be in accordance with foregoing sections.

**49.** Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections

Medical Officer to certify to fitness of prisoner for punishment.

**50.** (*1*) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12

(*2*) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or *whether he considers any modification necessary*

(*3*) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health

Entries in punishment-books

**51** (*1*) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison offence of which he was guilty, the date on which such prison offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison offence, the punishment awarded, and the date of infliction

(*2*) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor

(*3*) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries

Procedure on committal of heinous offence.

**52.** If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court

of the District Magistrate or of any Magistrate of the first class [1][or Presidency Magistrate] having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46:

[2][Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate: and]

Provided also that no person shall be punished twice for the same offence.

Whipping.

**53.** (*1*) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(*2*) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

Offences by prison subordinates.

**54.** (*1*) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(*2*) No person shall under this section be punished twice for the same offence.

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## CHAPTER XII.

### MISCELLANEOUS.

Extramural custody, control and

**55.** A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is other-

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[1] These words were inserted by s. 2 (*1*) of the Prisons (Amendment) Act, 1910 (13 of 1910).

[2] This proviso was substituted by s. 2 (*2*), *ibid.*

wise beyond the limits of any such prison in or under the lawful custody or control of a prison officer belonging to such prison shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison employment of prisoners.

**56** Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the Local Government so confine them

Confinement in irons

**57** (*1*) Prisoners under sentence of transportation may subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison

Confinement of prisoners under sentence of transportation in irons.

(*2*) Should the Superintendent consider it necessary either for the safe custody of the prisoner himself or for any other reason that fetters should be retained on any such prisoner for more than three months he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary and the Inspector General may sanction such retention accordingly

**58** No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority except in case of urgent necessity in which case notice thereof shall be forthwith given to the Superintendent

Prisoners not *to be ironed* by Jailer except under necessity

[1]**59** The Governor General in Council may for any part of British India and each Local Government with the previous sanction of the Governor General in Council may for the territories under its administration make rules consistent with this Act—

Power to *make rules*

(*1*) defining the acts which shall constitute prison offences

(*2*) determining the classification of prison offences into serious and minor offences

(*3*) fixing the punishments admissible under this Act which shall be awardable for commission of prison offences or classes thereof,

(*4*) declaring the circumstances in which acts constituting both a
60 prison offence and an offence under the Indian Penal Code may or may not be dealt with as a prison offence,

(*5*) for the award of marks and the shortening of sentences,

[1] For rules by the Governor General in Council under this section, *see* Genl R & O Vol III p 275 for rules by different Local Governments, *see* different local Rules and Orders

(*6*) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;

(*7*) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;

(*8*) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire; and,

(*9*) generally, for carrying into effect the purposes of this Act.

Power of Local Government to make rules.

[1]**60.** The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

(*a*) for the classification of prisons, and description and construction of wards, cells and other places of detention;

(*b*) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons;

(*c*) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act;

(*d*) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own costs;

(*e*) for the employment, instruction and control of convicts within or without prisons;

(*f*) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;

(*g*) for classifying and prescribing the forms of labour and regulating the periods of rest from labour;

(*h*) for regulating the disposal of the proceeds of the employment of prisoner;

(*i*) for regulating the confinement in fetters of prisoners sentenced to transportation;

(*j*) for the classification and the separation of prisoners;

(*k*) for regulating the confinement of convicted criminal prisoners under section 28;

(*l*) for the preparation and maintenance of history-tickets;

(*m*) for the selection and appointment of prisoners as officers of prisons;

(*n*) for rewards for good conduct;

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[1] For rules made under this section, *see* different local Rules and Orders.

(o) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire,

(p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons,

(q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends,

(r) for the appointment and guidance of visitors of prisons,

(s) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the [1] Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein, and,

(t) generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act

61 Copies of rules, under sections 59 and 60 so far as they affect the government of prisons shall be exhibited both in English and in the Vernacular, in some place to which all persons employed within a prison have access — Exhibition of copies of rules

62 All or any of the powers[2] and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation — Exercise of powers of Superintendent and Medical Officer

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## THE SCHEDULE

ENACTMENTS REPEALED

(See section 2 )

| Year | No | Title or short title | Extent of repeal |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| | | *Acts of the Governor General in Council* | |
| 1856 | VIII | An Act for the better control of the jails within the Presidency of Bombay | So much as has not been repealed |
| 1870 | XXVI | Prisons Act 1870 | So much as has not been repealed |

[1] See now the Code of Criminal Procedure, 1898 (Act 5 of 1898)

[2] For notification empowering certain officers in Burma to perform the duties of a Superintendent of a jail during his absence see Bur Gazette, 1908 Pt I, p 134

THE SCHEDULE—*contd.*

| Year. | No. | Title or short title. | Extent of repeal. |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| | | ***Acts of the Governor General in Council—contd.*** | |
| 1874 | XV | Laws Local Extent Act, 1874 | So much of Part (*b*) of the Third Schedule as relates to Act VIII of 1856. |
| [1]1878 | XIV | An Act to assimilate certain powers of the Local Government of the North-Western Provinces and Oudh. | Section 2. |
| * | * | * * * | * * * |
| [2]* | | | |
| 1891 | XII | Repealing and Amending Act, 1891. | So much of the Second Schedule as relates to Acts VIII of 1856 and XXVI of 1870. |
| | | ***Acts of the Governor of Fort St. George in Council.*** | |
| | | Madras Jails Act, 1859 | So much as has not been repealed. |
| 1869 | V | Madras Jails Act Amendment Act, 1882. | The whole. |
| 1882 | VII | An Act to amend the Madras Jails Act, 1869. | The whole. |
| 1889 | II | | |
| | | ***Acts of the Governor of Bombay in Council.*** | |
| [3]1874 | II | An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein. | So much as has not been repealed except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882. |
| [3]1882 | IV | An Act to amend Bombay Act II of 1874. | Section 3. |
| 1883 | IV | An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code. | The whole. |
| 1887 | I | An Act to further amend Bombay Act II of 1874. | The whole. |

[1] U. P. Code.
[2] The entry relating to the Upper Burma Laws Act, 1886 (20 of 1886), was repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.
[3] Bom. Code.

THE SCHEDULE—*concld*

| Year | No | Title or short title | Extent of repeal |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| *Acts of the Lieutenant-Governor of Bengal in Council* | | | |
| 1864 | II | An Act for the regulation of jails and the enforcement of discipline therein | So much as has not been repealed. |
| 1865 | V | An Act to amend Act II of 1864, passed by the Lieutenant Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail | So much as has not been repealed |
| *Regulations made under the Statute 33 Victoria, Chapter 3* | | | |
| [1]1872 | III | Southal Parganas Settlement Regulation | So much of the Schedule (as amended by Regulation III of 1886) as relates to Bengal Acts II of 1864 and V of 1865 |
| [2]1874 | IX | Arakan Hill District Laws Regulation, 1874 | So much as relates to Act XXVI of 1870 |
| 1875 | II | Assam Prisons Regulation 1875 | The whole |
| [3]1890 | I | British Baluchistan Laws Regulation, 1890 | So much as relates to Act XXVI of 1870 |

## ACT No XIII of 1894 [4]

[*12th October, 1894*]

### An Act to amend certain enactments relating to the Army

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing, It is hereby enacted as follows —

Title and commencement

I. (*1*) This Act may be called the * *[5] Amending (Army) Act, 1894, and

[1] Ben Code
[2] Bur Code
[3] Bal Code
[4] For Statement of Objects and Reasons see Gazette of India, 1894, Pt V, p 134, for Report of the Select Committee see *ibid* p 159 and for Proceedings in Council, see *ibid*, Pt VI, pp 227 233 and 239
[5] The words "Repealing and" were repealed by the Repealing and Amending Act 1903 (1 of 1903)

(*2*) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, fix in that behalf.

Amendment of enactments.

**2.** [2]* * * *

(*2*) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

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## THE FIRST SCHEDULE.

ENACTMENT REPEALED.

(*Rep., Act 1 of 1903.*)

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## THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

| Number and year. | Title or subject. | Amendments. |
|---|---|---|
| 1 | 2 | 3 |
| | *Act of the Governor General in Council.* | |
| [3] * * * | * * * | * * * * |
| | *Regulations of the Madras Code.* | |
| [4] * * * | * * * | * * * * |
| [5] VIII of 1817 . . | Sepoy Malguzars . . | In the title, *for* on the military establishment of the Presidency of Fort St. George *read* in the Madras Command.<br><br>In section 9, clause *first*, *for* on the Military establishment under the Presidency of Fort St. George *read* in the Madras Command. |

[1] The 1st April, 1895, *see* Notification No. 1019, dated 2nd November, 1894, Genl. R. and O., Vol. III.

[2] Sub-section (*1*) was repealed by Act 1 of 1903.

[3] The entry relating to Act 11 of 1877 was repealed by the *Indian Lunacy Act*, 1912 (*4 of 1912*).

[4] The entry relating to Regulation 7 of 1808 was repealed by s. **8** of the Special Laws Repeal Act, 1922 (4 of 1922).

[5] Mad. Code.

## ACT No I of 1895 [1]

[*4th January, 1895* ]

# An Act to amend the Presidency Small Cause Courts Act, 1882

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882, It is hereby enacted as follows —

Title and commencement.

1 (*1*) This Act may be called the Presidency Small Cause Courts Act, 1895, and

(*2*) It shall come into force on the first day of April, 1895

Amendment of section 6 Act XV 1882

2 In section 6 of the Presidency Small Cause Courts Act, 1882 hereinafter referred to a " the said Act " after the words " Code of Civil Procedure " the following shall be added, namely —

" and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879 "

Amendment of section 7, Act XV 1882

3 (*1*) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely —

" Provided that no person shall be appointed to be a Judge of such Court, or be authorized to exercise the powers of a Judge of such Court unless he is—

(*a*) an advocate of a High Court of Judicature established under the [2]Indian High Courts Act, 1861, or

(*b*) a vakil or attorney of any such High Court, or

(*c*) a Judge of a Court of Civil Judicature of not less than five years' standing

and that not less than one third of the persons so appointed including the Chief Judge, shall be advocates of one of the said High Courts

[3] * * * * * * *

4 [*Insertion of new section after section 8, Act XV, 1882* ] *Rep by the Repealing and Amending Act, 1903 (I of 1903)*

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[1] For Statement of Objects and Reasons see Gazette of India, 1893, Pt V p 9, for Report of the Select Committee see *ibid* 1894 Pt V, p 103 and for Proceedings in Council, see *ibid*, 1893, Pt VI, pp 4 and 76, *ibid*, 1894, Pt VI, pp 2 and 209 *ibid* 1895 Pt VI p 29

[2] Coll Stat Vol I the Act has now been repealed by the Government of India Act 1915

[3] Sub-section (2) was repealed by the Repealing and Amending Act 1914 (10 of 1914)

Substitution of new section for section 9, Act XV, 1882, and temporary continuance of existing procedure and practice.

**5.** For section 9 of the said Act the following shall be substituted, namely:—

Procedure and practice of Small Cause Court

"9. (*1*) The High Court may from time to time, by rules having the force of law,—

(*a*) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December, 1894, in or under this Act or any other enactment for the time being in force, and

(*b*) cancel or vary any such rule or rules.

"Rules made under this section may provide, among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act, or any other enactment for the time being in force.

"(*2*) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December, 1894, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section."

Addition to section 14, Act XV, 1882.

**6.** To section 14 of the said Act the following shall be added, namely:—

"*Explanation.*—For the purposes of this section an application for possession under section 41 shall be deemed to be a suit."

Addition to section 18, Act XV, 1882.

**7.** To section 18 of the said Act the following proviso shall be added immediately before the first *Explanation*, namely:—

"Provided that where the cause of action has arisen wholly within the local limits aforesaid, and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal."

Addition to section 18, Act XV, 1882.

**8.** After section 18 of the said Act the following shall be added, namely:—

Plaintiff may abandon suit against de-

"18A. The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on

a cause of action arising either wholly or in part within the local limits of the jurisdiction of the Court, to abandon the suit as against any defendant who does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain "

Defendant resident out of jurisdiction

**9** To section 19 of the said Act the following shall be added, namely —

Addition to section 19, Act XV, 1882

" 19A Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the suit, it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question When the Court so returns a plaint, it shall comply with the provisions of the second para-
82 graph of section 57 of the [1]Code of Civil Procedure and make such order with respect to costs as it may think just, and the Court shall for the
7 purposes of the [2]Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of defect of jurisdiction When a plaint so returned is afterwards presented to a High Court, credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government "

Return of plaint

**10.** In section 21 of the said Act after the words " or value thereof " the words " and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees " shall be inserted

Amendment of section 21, Act XV, 1882

**11** In section 22 of the said Act for the words " two thousand " the words " one thousand " shall be substituted

Amendment of section 22, Act XV, 1882

**12** [*Repeal of Act XV 1882 section 23, and second schedule* ] *Rep by the Repealing and Amending Act, 1914 (10 of 1914)*

**13** For Chapter VI of the said Act the following shall be substituted namely —

Substitution of new Chapter for Chapter VI Act XV, 1882

" CHAPTER VI

" NEW TRIALS AND APPEALS

37 Save as otherwise provided by this Chapter or by any other enactment for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive

General finality of decrees and orders of Small Cause Court

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[1] See now rule 10 Order VII in the first schedule to the Civil Procedure Code, 1908 (Act 5 of 1908)
[2] See now Act 9 of 1908

New trial of contested cases.

"38. Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section 522 of the [1]Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

"*Explanation.*—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

Removal of certain causes into High Court.

"39. (*1*) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

"(*2*) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right, but it shall be lawful for the Judge, if he shall think fit, in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit, and such Judge may also, if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order.

"(*3*) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

"(*4*) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court, he shall be permitted to revive the portion of his claim so abandoned.

Rules with respect to suits removed under the last foregoing section.

"40. (*1*) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

[1] *See* now rule 16 in the second schedule to Act 5 of 1908.

"(2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the [1]Code of Civil Procedure unless the Court shall otherwise order

"(3) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government"

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## ACT No III of 1895 [2]

[*8th February, 1895*]

### An Act to amend the Indian Penal Code, [3]* * * .

WHEREAS it is expedient to amend the Indian Penal Code,[3]* * *, It is hereby enacted as follows —

[4]* * *

**1.** For section 182 of the Indian Penal Code the following shall be substituted, namely — *Substitution of new section for section 182, Act XLV, 1860*

"182 Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause, such public servant— *False information with intent to cause public servant to use his lawful power to the injury of another person.*

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him or

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[1] *See* now rule 1 Order VIII in the first schedule to Act 5 of 1908

[2] Short title, 'The Indian Criminal Law Amendment Act 1895" *See* the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons *see* Gazette of India 1894 Pt V p 95 for Report of the Select Committee, *see ibid*, 1895 Pt V, p 19 and for Proceedings in Council *see ibid*, 1894, Pt VI p 151 *ibid* 1895 Pt VI pp 37 and 116 to 124

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Act 45 of 1860 That Act as amended to date was declared in force there by s 4 and the First Schedule to the Burma Laws Act 1898 (13 of 1898), Bur Code ... onthal Parganas by s 3 of the Sonthal as amended by the Sonthal Parganas 9) B & O Code, Vol I The Act is amends Act 45 of 1860 which has been 913 Bal Code ... ct, 1864 (6 of 1864), it has been extend gong Darrang, Sibsagar, Lakhimpur, Cachar (excluding the North Cachar Hills) and Goalpara (excluding the Eastern Duars) *See* Gazette of India, 1896 Pt I p 302

[3] The words and figures "Act VI of 1864 and the Indian Post-office Act, 1866" in the title and preamble were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

[4] The heading "*Indian Penal Code*" was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

(*b*) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

" *Illustrations.*

" (*a*) *A* informs a Magistrate that *Z*, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss *Z*. *A* has committed the offence defined in this section.

" (*b*) *A* falsely informs a public servant that *Z* has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of *Z*'s premises, attended with annoyance to *Z*. *A* has committed the offence defined in this section.

" (*c*) *A* falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the Police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. *A* has committed an offence under this section."

Addition of section to Chapter XII, Act XLV, 1860.

2. To Chapter XII of the said Code the following shall be added, namely:—

Prohibition of fictitious stamps.

" 263A. (*1*) Whoever—

(*a*) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(*b*) has in his possession, without lawful excuse, any fictitious stamp, or

(*c*) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

" (*2*) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

" (*3*) In this section ' fictitious stamp ' means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

" (*4*) In this section and also in sections 255 to 263, both inclusive, the word ' Government,' when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person

or persons authorised by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country"

3 For section 294 of the said Code the following shall be substituted namely — Substitution of new section for section 294 Act XLV, 1860

"294 Whoever, to the annoyance of others, Obscene acts and songs

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words in or near any public place

shall be punished with imprisonment of either description for a term which may extend to three months or with fine or with both"

**4.** After section 477 of the said Code the following shall be added namely — Addition of new section after section 477 Act XLV 1860

"477A Whoever being a clerk, officer or servant or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud destroys alters mutilates or falsifies any book paper writing, valuable security or account which belongs to or is in the possession of his employer or has been received by him for or on behalf of his employer or wilfully and with intent to defraud, makes or abets the making of any false entry in, or omits, or alters or abets the omission or alteration of any material particular from or in, any such book paper, writing, valuable security or account shall be punished with imprisonment of either description for a term which may extend to seven years or with fine, or with both Falsification of accounts.

"*Explanation* —It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed"

5 [*Substitution of new sections for sections 2, 3 and 4 Act VI 1864*] *Rep by the Whipping Act 1909 (4 of 1909)*

6 [*Addition of Explanation to section 5 Act VI of 1864*] *Rep by the Whipping Act 1900 (5 of 1900), s 4*

7 [*Addition of new section after section 65 Act XII of 1886*] *Rep by the Indian Post Office Act, 1898 (6 of 1898)*

(*b*) confinement to quarters for a term not exceeding fifteen days with or without punishment drill extra guard, fatigue or other duty

(*c*) deprivation of good conduct pay,

(*d*) removal from any office of distinction or special emolument "

**3** For the second paragraph of section 8 of the said Act beginning with the words " Such certificate shall cease to have effect " and ending with the words " officer empowered to receive the same " the following shall be substituted, namely — **Amendment of section 8 Act V 1861 respecting certificates and suspension**

" Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police officer and, on his ceasing to be such an officer shall be forthwith surrendered by him to any officer empowered to receive the same

" A police officer shall not by reason of being suspended from office cease to be a police officer During the term of such suspension the powers, functions and privileges vested in him as a police officer shall be in abeyance, but he shall continue subject to the same responsibilities discipline and penalties and to the same authorities as if he had not been *suspended* "

**4** For section 15 of the said Act the following shall be substituted namely — **Substitution of new section for section 15 Act V, 1861**

" 15 (*1*) It shall be lawful for the Local Government by proclamation to be notified in the official Gazette and in such other manner as the Local Government shall direct to declare that any area subject to its authority has been found to be in a disturbed or dangerous state or that from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police **_Quartering of additional police in disturbed or dangerous districts_**

" (*2*) It shall thereupon be lawful for the Inspector General of Police or other officer authorized by the Local Government in this behalf with the sanction of the Local Government to employ any police force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid

" (*3*) Subject to the provisions of sub section (*5*) of this section the cost of such additional police force shall be borne by the inhabitants of such area described in the proclamation

" (*4*) The Magistrate of the district after such enquiry as he may deem necessary shall apportion such cost among the inhabitants who are as aforesaid liable to bear the same and who shall not have been exempted under the next succeeding sub-section Such apportionment shall be

made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

"(*5*) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

"(*6*) Every proclamation issued under sub-section (*1*) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may, in each case, think fit to direct.

"*Explanation.*—For the purposes of this section, 'inhabitants' shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein."

Addition of new sections after section 15, Act V, 1861.

**5.** After section 15 of the said Act the following shall be inserted, namely:—

Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.

"15A. (*1*) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them. it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct, to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated.

"(*2*) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

(*a*) declare the persons to whom injury has been caused by or has ensued from such misconduct;

(*b*) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(*c*) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section:

" Provided that the Magistrate shall not make any declaration or assessment under this sub section unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury

"(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation

"(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub section (2) shall be subject to revision by the Commissioner of the Division or the Local Government but save as aforesaid shall be final

"(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section

"(6) *Explanation* —In this section the word inhabitants' shall have the same meaning as in the last preceding section '

**6** For section 16 of the said Act the following shall be substituted namely — New section substituted for section 16, Act V 1861

'16 (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the [1]Code of Criminal Procedure 1882 for the recovery of fines, or by suit in any competent Court Recovery of moneys payable under sections 13 14 15 and 15A and disposal of same when recovered

"(2) All moneys paid or recovered under sections 13 14 and 15 shall be credited to a fund to be called The General Police Fund and shall be applied to the maintenance of the police force under such orders as the Local Government shall pass

"(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section '

**7.** To section 26 of the said Act the following shall be added namely — Addition to section 26 Act V 1861

"(2) The provisions of section 525 of the [1]Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section '

**8** For section 27 of the said Act the following shall be substituted *namely* — Substitution of new section for section 27, Act V 1861

27 (1) If no person shall within the period allowed claim such property, or the proceeds thereof if sold it may, if not already sold under Confiscation of property if no claimant appears

[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898)

sub-section (*2*) of the last preceding section, be sold under the orders of the Magistrate of the district.

"(*2*) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of Government."

Addition to section 29, Act V, 1861, respecting overstay of leave.

**9.** In section 29 of the said Act, after the words "for the period of two months" the following shall be added, namely:—

"or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave."

Substitution of new section for section 30, Act V, 1861.

**10.** For section 30 of the said Act the following shall be substituted, namely:—

Regulation of public assemblies and processions, and licensing of the same.

"30. (*1*) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

"(*2*) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the *judgment of the Magistrate of the district or of the sub-division of a* district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

"(*3*) On such application being made he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section: Provided that no fee shall be charged on the application for, or grant of, any such license.

"*(4) He may also regulate the extent to which music may be used* in the streets on the occasion of festivals and ceremonies."

Addition of new section after section 30, Act V, 1861.

**11.** After section 30 of the said Act the following section shall be inserted, namely:—

Powers with regard to assemblies and processions violating conditions of license.

"30A. (*1*) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

" (2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly "

Amendment of sections 32 and 33, Act V, 1861

**12.** In section 32 of the said Act, for the word " two," where it first occurs, the word " three," and in section 33 of the said Act for the word " three," the word " four," shall be respectively substituted

Amendment of section 34 Act V, 1861

**13.** In section 34 of the said Act, after the words " or in any " the words " open place or " shall be inserted, and for the expression " residents and passengers " the expression " residents or passengers " shall be substituted

Substitution of new section for sections 37, 38, 39 and 40, Act V, 1861.

**14.** For sections 37, 38, 39 and 40 of the said Act the following section shall be substituted, namely —

Recovery of penalties and fines imposed by Magistrates.

" 37 The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, and of sections 386 to 389, both inclusive, of the [1]Code of Criminal Procedure 1882, with respect to fines shall apply to penalties and fines imposed under this Act on conviction before a Magistrate

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days "

Substitution of new section for section 46, Act V, 1861

**15.** For section 46 of the said Act the following shall be substituted, namely —

Scope of Act.

" 46 (*1*) This Act shall not by its own operation take effect in any presidency, province or place But the Governor General in Council, by an order to be published in the Gazette of India, may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place

" (2) When the whole or any part of this Act shall have been so extended, the Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act—

(*a*) to regulate the procedure to be followed by Magistrates and Police-officers in the discharge of any duty imposed upon them by or under this Act;

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898)

(b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon; and,

(c) generally, for giving effect to the provisions of this Act.

"(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Local Government."

Saving of orders heretofore issued under section 46, Act V, 1861.

**16.** All orders heretofore issued by the Governor General in Council or the Local Government under section 46 of the said Act shall, as far as may be, be deemed to have been issued under the new section substituted for the same by the last foregoing section.

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## ACT No. X of 1895.[1]

[*7th March, 1895.*]

## An Act to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction.

WHEREAS it is expedient to provide for the payment by Railway Companies registered under the [2]Indian Companies Act, 1882, of interest out of capital during construction; It is hereby enacted as follows:— VI of

Title and extent.

**1.** (1) This Act may be called the Indian Railway Companies Act, 1895.

(2) It extends to the whole of British India; [3]*

[3]* * * * * * *

Definitions.

**2.** In this Act, unless there is something repugnant in the subject or context,—

(1) "railway" means a railway as defined in section 3, clause (4), of the Indian Railways Act, 1890: IX of 1

[1] For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 25, and for Proceedings in Council, see *ibid*, 1895, Pt. VI, pp. 128, 213, and 217.
The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

[2] *See* now the consolidated Act 7 of 1913 which repealed Act 6 of 1882.

[3] The word "and" at the end of sub-section (2), and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

(2) ' the railway means the railway in relation to the construction of which interest out of capital is permitted to be paid a hereinafter provided and

(3) " Railway Company ' means a Company registered under the
1882 [1]Indian Companies Act 1882 and formed for the purpose of making and working or making or working a railway in India whether alone or in conjunction with other purposes

**3** A Railway Company may pay interest on its paid up share capital out of capital for the period and subject to the conditions and restrictions in this section mentioned and may charge the same to capital as part of the cost of construction of the railway — **Payment of interest out of capital.**

(1) Such interest shall be paid only for such period as shall be determined by the Governor General in Council and such period shall in no case extend beyond the close of the half-year next after the half year during which the railway shall be actually completed and opened for traffic

(2) No such payment shall be made unless the same is authorised by the Company s memorandum of association or by a special resolution of the Company

(3) No such payment whether authorised by the Company s memorandum of association or by special resolution as aforesaid shall be made without the previous sanction of the Governor General in Council

(4) The amount so paid out of capital by way of interest in respect of any period shall in no case exceed a sum which shall together with the net earnings of the railway during such period make up the rate of four per cent per annum

(5) No such payment of interest shall be made until such Railway Company has satisfied the Governor General in Council that two thirds at least of its share capital in respect whereof interest is to be so paid has been actually issued and accepted and is held by shareholders who or whose representatives are legally liable for the same

(6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear

(7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid

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[1] *See* now the consolidated Act 7 of 1913 which repealed Act 6 of 1882

Provisions of section 3 applicable to additional share capital for extensions.

**4.** A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company, shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

Notice in prospectus and other documents.

**5.** When a Railway Company has power to pay interest under this Act, notice to that effect shall be given in every prospectus, advertisement or other document inviting subscriptions for shares therein, and in every certificate of such shares.

Accounts.

**6.** When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid.

Construction of borrowing powers.

**7.** If by any memorandum of association, articles of association or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company.

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## ACT No. XV OF 1895.[1]

[*10 October, 1895.*]

### An Act to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown, and to remove certain doubts as to the powers of the Crown in relation to such grants.

WHEREAS doubts have arisen as to the extent and operation of the Transfer of Property Act, 1882, and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts, It is hereby enacted as follows:—

Title and extent.

**1.** (*1*) This Act may be called the Crown Grants Act, 1895.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 169, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 328 and 355.

This Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code; in British Baluchistan by section 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *see* Bal. Code.

(2) It extends to the whole of British India [1]*

[1]* * * * * * *

82 **2** Nothing in the Transfer of Property Act 1882, contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to or in favour of any person whomsoever but every such grant and transfer shall be construed and take effect as if the said Act had not been passed

Transfer of Property Act, 1882, not to apply to Crown grants

**3** All provisions restrictions conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor any rule of law statute or enactment of the Legislature to the contrary notwithstanding

Crown grants to take effect according to their tenor

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ACT No VI OF 1896 [2]

*[27th February, 1896 ]*

## An Act to amend the Indian Penal Code

1860 WHEREAS it is expedient to amend the Indian Penal Code It is hereby enacted as follows —

**1** (1) For the second paragraph of section 230 of the said Code the following shall be substituted namely —

Substitution of new paragraph for paragraph of section 230 of Code

Queen s coin is metal stamped and issued by the authority of the Queen or by the authority of the Government of India or of the Government of any Presidency or of any Government in the Queen s dominions in order to be used as money and metal which has been so stamped and issued shall continue to be the Queen s coin for the purposes

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[1] The word and at the end of sub section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

[2] Short title The Indian Penal Code Amendment Act 1896 see the Indian Short Titles Act 1897 (14 of 1897)

For Statement of Objects and Reasons see Gazette of India 1895 Pt V p 157, for Report of the Select Committee, see ibid, 1896, Pt V p 133 and for Proceedings in Council see ibid 1895 Pt VI p 320 and ibid 1896 Pt VI pp 294 and 109

As being part of Act 45 of 1860 it is in force in Upper Burma (except the Shan States) see the Burma Laws Act 1898 (13 of 1898) Bur Code for the same reason it is in force in British Baluchistan, see Bal Code

It is in force in tracts in the Chin Hills to which the Chin Hills Regulation, 1896 (5 of 1896) has been extended as being part of Act 45 of 1860 which is included in the Schedule to that Regulation Bur Code

It has been declared in force in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s 3 as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) s 3 B & O Code Vol I

of this Chapter, notwithstanding that it may have ceased to be used as money."

(*2*) To the illustrations appended to the said section the following shall be added, namely:—

"(*e*) The 'Farukhabad rupee,' which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used."

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## ACT No. VIII of 1896.[1]

[*5th March, 1896.*]

An Act to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses; It is hereby enacted as follows:—

Title and construction. **1.** (*1*) This Act may be called the Inland Bonded Warehouses Act, 1896.

(*2*) It shall be read with, and taken as part of, the Sea Customs Act, 1878; [2]* VIII

[2]* * * * * * *

Extent. **2.** Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor General in Council may from time to time, by notification in the Gazette of India, [3]direct in this behalf.

*Inland Bonded Warehouses.*

Repeal. **3.** (*1*) The Inland Bonded Warehouses Act, 1887, is hereby repealed. X

(*2*) The reference to that Act in section 3, clause (*7*), of the Cotton Duties Act, 1896, shall be read as if it were made to this Act. II

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 54; for Report of the Select Committee, *see ibid*, 1896, Pt. V, p. 145, and for Proceedings in Council, *see ibid*, 1895, Pt. VI, p. 238, and *ibid*, 1896, Pt. VI, pp. 2, 104 and 114.

[2] The word "and" at the end of sub-section (*2*), and sub-section (*3*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[3] Ss. 5 to 7 have been extended to the territories administered by the Government of Bengal, *see* Gazette of India, 1897, Pt. I, p. 161.

*(Inland Bonded Warehouses Salt Time Bonds )*

1878 4 (*1*) Notwithstanding anything contained in the Sea Customs Act 1878, the Chief Customs authority may, from time to time, with the previous sanction of the Local Government appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license

Inland bonded warehouses and law applicable thereto

(*2*) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs duties on goods brought in bond from one customs port to another, and with respect to warehousing, shall be construed as if the place were a customs port and a warehousing port and the warehouse a public or a private warehouse as the case may be appointed or licensed thereat under that Act

(3) All rules applicable to such warehouses and to the weighment and removal thereto of salt, and in force at the commencement of this Act shall remain so applicable until they shall be duly superseded or altered

1* * * * * * *

*Salt Time Bonds*

5 Notwithstanding anything contained in the Sea Customs Act 1878 1878, or in section 4 of this Act the Chief Customs authority may permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act 1878 to be conveyed under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed and in accordance with such rules as may be prescribed in this behalf by the Local Government to a warehouse appointed or licensed for that purpose by the Chief Customs authority

Conveyance of salt to inland bonded warehouses under bonds

6 Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed or when such form is inapplicable or insufficient in such other form as is from time to time prescribed by the Chief Customs authority

Form of bond

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption and shall in no case exceed six months

Provided also that the Chief Customs authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse

[1] Sub section (*4*) was repealed by the Repealing and Amending Act 1914 (10 of 1914)

Power to make rules.

**7.** The Local Government may [1] * * * * * make rules,[2] consistent with the provisions of this Act, to regulate—

(*1*) the appointment or licensing of warehouses under section 5;

(*2*) the inspection by Government officers of such warehouses;

(*3*) the safe custody of salt in transit under the provisions of the said section;

(*4*) the removal of salt from a warehouse appointed or licensed under the said section;

(*5*) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond; and

(*6*) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

Saving.

**8.** Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removeable under section 4.

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## FORM OF BOND.

*(See section 6.)*

No. 189 .

We, A. B.,

now of

; and C. D.,

, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at , for a period of months, the following goods, that is to say, maunds of salt imported by sea from on board of the ship and entered in the Custom-house books as No. of the Register of goods imported by sea;

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[1] The words "with the previous sanction of the Governor General in Council" were omitted by Schedule, Part I, of the Decentralization Act, 1914 (4 of 1914).

[2] For rules made by the Government of Bengal under this section, *see* Ben. R. & O.

The condition of this bond is that

If the said or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof

And if the said or their legal representatives shall pay to the officer in charge of the Custom house at the port of or to the Collector of all dues including customs duties or other lawful charges which shall be demandable on the said salt or on account of penalties incurred in respect thereto within from the date of this bond, together with interest on every such sum at the rate of six per cent per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom house

And if within the term so fixed or such further period (if any) as may be granted by the Chief Customs authority for the payment thereof the full amount of all customs duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt,

This obligation shall be void

Otherwise and on breach or failure in the performance of any part of this condition the same shall be in force

(Date)

(Signed) ( )

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ACT No IX OF 1896 [1]

[*5th March 1896* ]

## An Act to amend the Indian Railways Act 1890

90 WHEREAS it is expedient to amend the Indian Railways Act, 1890, It is hereby enacted as follows —

**1** In section 7, sub section (*1*) clause (*a*) of the said Act after the word "roads," in the second place in which it occurs the words "lines of railway" shall be added

Amendment of section 7, Act IX, 1890

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[1] Short title "The Indian Railways Act (1890) Amendment Act, 1896" see the Ind Gazette of India 1896 Pt V p 125 and pp 90 and 115 1890 (9 of 1890) it is in force in Up Burma Laws Act 1898 (13 of 1898) Bur Code

It has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s 3, as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) s 3 B & O Code Vol I

Amendment of section 10, sub-section (2), Act IX, 1890.

**2.** In section 10, sub-section *(2)*, of the said Act, for the latter part of the sub-section after the words "so far as may be" the following shall be substituted, namely:—

"with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation."

Amendment of section 59, sub-section (3), Act IX, 1890.

**3.** In section 59, sub-section *(3)*, of the said Act, for "sub-section *(1)*" "sub-section *(2)*" shall be substituted.

Amendment of section 73, sub-section (1), Act IX, 1890.

**4.** In section 73, sub-section *(1)*, of the said Act, before the word "camels" the word "mules," and before the word "sheep" the word "donkeys," shall be added.

**5.** [*Repeal of section 81, Act IX, 1890.*] *Rep. by the Repealing and Amending Act, 1914 (10 of 1914).*

Amendment of section 114, Act IX, 1890.

**6.** In section 114 of the said Act, for the words "the return half" the words "any half," and for the words "the return journey" the words "the journey," shall be substituted.

Amendment of section 136, sub-section (1), Act IX, 1890.

**7.** In section 136, sub-section *(1)*, of the said Act, after the word "Court" the words "or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution" shall be added.

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## ACT No. XI of 1896.[1]

[*13th March, 1896.*]

## An Act to amend the Legal Practitioners Act, 1879.

Whereas it is expedient to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows:—

Addition to Section 3 Act XVIII, 1879.

**1.** To section 3 of the said Act the following shall be added, namely:—

"Tout."

"'Tout' means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration

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[1] Short title, "The Legal Practitioners Act, 1896," *see* the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 172; for Report of the Select Committee, *see ibid*, 1896, Pt. V, p. 149, and for Proceedings in Council, *see ibid*, 1895, Pt. VI, p. 329, and *ibid*, 1896, Pt. VI, pp. 3, 114 and 123.

moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration ."

2 For section 13 of the said Act the following shall be substituted namely — Substitution of new section for section 13, Act XVIII, 1879

" 13 The High Court may also after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtar holding a certificate as aforesaid— Suspension and dismissal of Pleaders and Mukhtars guilty of unprofessional conduct

(*a*) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the

1882 [1]Code of Civil Procedure or some servant, relative or friend authorised by the party to give such instructions or

(*b*) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty or

(*c*) who tenders, gives or consents to the retention out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtar, or

(*d*) who, directly or indirectly procures or attempts to procure the employment of himself as such Pleader or Mukhtar through or by the intervention of any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given or

(*e*) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36 or

(*f*) for any other reasonable cause "

3. For section 22 of the said Act the following shall be substituted namely — Substitution of new section for section 22 Act XVIII, 1879

" 22 The Chief Controlling Revenue authority may also, after such enquiry as it thinks fit, suspend or dismiss any Revenue Agent holding a certificate as aforesaid— Suspension and dismissal of Revenue Agents guilty of unprofessional conduct

(*a*) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

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[1] *See* now Act 5 of 1908

(*b*) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue Agent, or

(*c*) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(*d*) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(*e*) for any other reasonable cause."

*Substitution of new section for section 36, Act XVIII, 1879.*

4. For section 36 of the said Act the following shall be substituted, namely:—

*Power to frame and publish lists of touts.*

"36. (*1*) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

(*2*) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(*3*) A copy of every such list shall be kept hung up in every Court to which the same relates.

(*4*) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(*5*) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (*e*), and section 22, clause (*d*)."

ACT No I of 1897 [1]

[14th January, 1897]

# An Act to amend Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*)

WHEREAS it is expedient to amend Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*), It is hereby enacted as follows —

**1.** The said Act XXXVII of 1850 may be called the Public Servants (Inquiries) Act, 1850

Title of Act XXXVII, 1850

**2.** In the preamble to the said Act, after the word "removable" the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted

Amendment of preamble to Act XXXVII, 1850

**3** In section 2 of the said Act, for the words "the East India Company, not removable from his office without the sanction of the same Government," the words "the Government, not removable from his appointment without the sanction of the Government," shall be substituted

Amendment of section 2, Act XXXVII, 1850

**4.** For section 23 of the said Act the following section shall be substituted, namely —

Substitution of new section for section 23 Act XXXVII, 1850

"*23 The powers of the Government under this Act may in all cases* be exercised by the Governor General in Council, and when the person accused can be removed from his appointment by the Local Government, those powers may also be exercised by the Local Government"

Powers of Government under this Act by whom exercisable

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[1] Short title "The Public Servants (Inquiries) Act (1850) Amendment Act 1897," *see* the Indian Short Titles Act 1897 (14 of 1897)

For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt V, p 239, for Report of the Select Committee, *see ibid*, 1897, Pt V, p 5, and for Proceedings in Council *see ibid* 1896, Pt VI, pp 232 and 251, *ibid*, 1897, Pt VI, pp 2 and 9

As being part of Act 27 of 1850, it is in force in Upper Burma (except the Shan States), *see* the Burma Laws Act, 1898 (13 of 1898), Bur Code

As part of that Act it came into force in the following Scheduled Districts when Act 27 of 1850 was declared in force there by notification under s 3 (*a*) of the Scheduled Districts Act 1874 (14 of 1874) namely, (1) the whole of Assam except the district of Sylhet and the North Lushai Hills, *see* Gazette of India, 1897, Pt I, p 299 (2) the Porahat Estate in the Singbhum District, *see ibid*, 1897, Pt I, p 1059, (3) the Scheduled Districts in Ganjam and Vizagapatam, *see ibid*, 1898, Pt I, p 870

# ACT No. III of 1897.[1]

*[4th February, 1897.]*

## An Act to provide for the better prevention of the spread of Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous epidemic disease; It is hereby enacted as follows:—

Short title and extent.

**1.** *(1)* This Act may be called the Epidemic Diseases Act, 1897.

*(2)* It extends to the whole of British India (inclusive of [2] * British Baluchistan, the Santhal Parganas and the Pargana of Spiti); [3] *

[3]* * * * * * *

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

**2.**[4] *(1)* When at any time the Governor General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

*(2)* In particular and without prejudice to the generality of the foregoing provisions, the Governor General in Council may take measures and prescribe regulations for—

*(a)* the inspection of any ship or vessel leaving,[5] or arriving at, any port in British India and such detention thereof, or of any person intending to sail therein or arriving thereby, as may be necessary; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 21; for Report of the Select Committee, *see ibid*, p. 23, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 18 and 24.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, B. & O. Code, Vol. I; and in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), *see* B. & O. Code, Vol. I.

[2] The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (13 of 1898), *see* fifth schedule, Bur. Code.

[3] The word "and" at the end of sub-section (2), and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[4] For notifications issued under this section, *see* different local Rules and Orders.

[5] For special provision as to inspection of passengers sailing for ports in the Red Sea, *see* s. 30 of the Native Passenger Ships Act, 1887 (10 of 1887).

(*b*) the inspection of persons travelling by railway or otherwise and the segregation, in hospital temporary accommodation or otherwise of persons suspected by the inspecting officer of being infected with any such disease

[1] * * * * * * * * *

[2][**2A** When any Local Government is satisfied that the Province or any part thereof is visited by or threatened with, an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof such Local Government may exercise all or any of the powers conferred by this Act on the Governor General in Council ] Concurrent powers of Local Government

**3** Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code Penalty

**4** No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act Protection to persons acting under Act

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## ACT No IV of 1897 [3]

[*4th February 1897* ]

## An Act to provide for certain matters relating to Fisheries in British India

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India, It is hereby enacted as follows —

**1** (*1*) This Act may be called the Indian Fisheries Act 1897 Title and extent

(*2*) It extends to the whole of British India except [4]Burma, [5]*

[5]* * * * * * *

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[1] Sub section (*3*) was repealed by s 2 and Sch I of the Devolution Act 1920 (38 of 1920)

[2] This section was inserted by s 2 and Sch I ibid

[3] The word and at the end of sub-section (*2*) and sub section (*3*) were re[illegible]

Act to be read as supplemental to other Fisheries Laws.

**2.** Subject to the provisions of sections 8 and 10 of the [1] General Clauses Act, 1887, this Act shall be read as supplemental to any other enactment[2] for the time being in force relating to fisheries in any part of British India except Burma.

Definitions.

**3.** In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "fish" includes shell-fish:

(*2*) "fixed engine" means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way: and

(*3*) "private water" means water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity.

*Explanation.*—Water shall not cease to be "private water" within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

Destruction of fish by explosives in inland waters and on coasts.

**4.** (*1*) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(*2*) In sub-section (*1*) the word "water" includes the sea within a distance of one marine league of the sea-coast: and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

Destruction of fish by poisoning of waters.

**5.** (*1*) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(*2*) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

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[1] *See* now ss. 4 and 26 of the General Clauses Act, 1897 (10 of 1897).

[2] For law relating to Fisheries in—

(*1*) Assam, *see* the Assam Land and Revenue Regulation, 1886 (1 of 1886), ss. 16 and 155.

(*2*) Bengal and Assam (Private Fisheries), *see* the Private Fisheries Protection Act, 1889 (Ben. Act 2 of 1889).

(*3*) Central Provinces, *see* the Central Provinces Land Revenue Act, 1881 (18 of 1881), C. P. Code.

(*4*) Nilgiris District, as to acclimatised fish, *see* the Nilgiris Game and Fish Preservation Act, 1879 (Mad. Act 2 of 1879), Mad. Code, Vol. I.

6. (*1*) The Local Government may make rules[1] for the purposes hereinafter in this section mentioned, and may by notification in the official Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification

Protection of fish in selected waters by rules of Local Government.

(*2*) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein

(*3*) Such rules may prohibit or regulate all or any of the following matters, that is to say —

(*a*) the erection and use of fixed engines,

(*b*) the construction of weirs, and

(*c*) the dimension and kind of the nets to be used and the modes of using them

(*4*) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years

(*5*) In making any rule under this section the Local Government may—

(*a*) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in, and

(*b*) provide for—

(*i*) the seizure forfeiture and removal of fixed engines, erected, or used, or nets used, in contravention of the rule, and

(*ii*) the forfeiture of any fish taken by means of any such fixed engine or net

(*6*) The power to make rules under this section is subject to the condition that they shall be made after previous publication

7. (*1*) Any police-officer, or other person [2] specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

Arrest without warrant for offences under this Act

(*a*) if the name and address of the person are unknown to him, and

[1] For rules under s 6, *see* different local Rules and Orders

[2] For notification under this section in Madras, *see* Fort St George Gazette, 1903, Pt I, p 19

(*b*) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(*2*) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

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## ACT No. V OF 1897.[1]

[*25th February, 1897.*]

### An Act * * * *[2] to amend and facilitate the citation of certain *[2] enactments.

* * * * * * *

*[3] Whereas it is *[3] expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act;

It is hereby enacted as follows:—

Title.

**1.** (*1*) This Act may be called the * *[4] Amending Act, 1897; *[5] * * * * *

Enactments amended.

**2.** *[6] * * *

(*2*) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

**3.** [*Savings.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 50, and for Proceedings in Council, *see ibid*, 1897, pp. 41 and 44.

[2] In the Title the words "to repeal certain obsolete enactments and" and the word "other" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

[3] In the Preamble the repealing portion and the words "and" and "also" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

[4] The words "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

[5] The word "and" at the end of sub-section (*1*), and sub-section (*2*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[6] Sub-section (*1*) of section 2 was repealed by Act 1 of 1903.

4. [illegible] three column of the third schedule may [illegible] to any other mode of citation be cited [illegible] all [illegible] in that behalf in the fourth column [illegible] Citation of certain enactments.

THE FIRST SCHEDULE

[illegible]

THE SECOND SCHEDULE

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No. | [illegible] | [illegible] |
| 18[illegible] | * | * | * |
| | | [illegible] | |
| 18[illegible] | XI | [illegible] | [illegible] |
| 1812 | XI | [illegible] | [illegible] |
| | | | [illegible] |
| 1823 | VII | [illegible] | [illegible] |
| | | | [illegible] |
| | | | [illegible] |

[1] [illegible]ed portions of Parts I to III [illegible] Acts of the Governor General [illegible] Governor of Bengal and Regulat[illegible] in force in Assam alone [illegible] Code

THE THIRD SCHEDULE.

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short title. |

*Part I.—Local Acts of the Governor General in Council in force in Assam.*

| | | | |
|---|---|---|---|
| 1850 | XXV | For the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819. | The Forfeited Deposits Act, 1850. |
| [1]* | * | * * | * * * * |
| 1853 | VI | Relating to summary suits for arrears of rent, to sales of patni taluqs and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent. | The Rent Recovery Act, 1853. |
| " | XIX | To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency. | The Recusant Witnesses Act, 1853. |
| 1856 | XII | To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William. | The Civil Courts Amins Act, 1856. |
| 1867 | III | To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma. | The Public Gambling Act, 1867. |
| [2]* | * | * * | * * * * |
| [3]* | * | * * | * * * * |

[1] The entry relating to Act 33 of 1850 was repealed by s. 2 and Sch. of Act 12 of 1927.
[2] The entry relating to Act 19 of 1871 was repealed by s. 2 and Sch., *ibid.*
[3] The entries here omitted affect Acts in force only in Assam; such as are unrepealed are reproduced in the Assam Code, Vol. I.

THE THIRD SCHEDULE—*contd*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject | Short title |

*Part I —Local Acts of the Governor General in Council in force in Assam*—contd

| | | | |
|---|---|---|---|
| 1886 | III | To amend the Northern India Ferries Act 1878 | The Northern India Ferries Act Amendment Act 1886 |
| 1892 | IV | To amend the Bengal Court of Wards Act 1879 [Act IX (B C) of 1879] | The Court of Wards Act (Bengal) Amendment Act 1892 |
| 1* | * | * * * | * * * * |

*Part III —Regulations of the Bengal Code in force in Assam*

| | | | |
|---|---|---|---|
| 1793 | I | For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March 1793 | The Bengal Permanent Settlement Regulation, 1793 |
| " | II | For abolishing the Courts of Mal Adalat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewani Adalat and prescribing Rules for the conduct of the Board of Revenue and the Collectors | The Bengal Land revenue Regulation 1793. |
| " | VIII | For re enacting with modifications and amendments the rules for the Decennial Settlement of the public revenue payable from the lands of zamindars, independent taluqdars and other actual proprietors of land in Bengal Behar and Orissa, passed for those provinces respectively on the 18th September 1789 the 25th November, 1789, and the 10th February, 1790 and subsequent dates | The Bengal Decennial Settlement Regulation, 1793 |

[1] The entry here omitted relates to the Assam Frontier Tracts Regulation, 1884 (III of 1884), which only affects Assam, see Assam Code Vol I

THE THIRD SCHEDULE—*contd.*

| 1<br>Year. | 2<br>No. | 3<br>Subject. | 4<br>Short title. |
|---|---|---|---|
| | | *Part III.—Regulations of the Bengal Code in force in Assam—contd.* | |
| 1793 | XI | For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government. | The Bengal Inheritance Regulation, 1793. |
| .. | XXXVIII | For re-enacting, with modifications, such part of the rule passed on the 27th June 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars, independent taluqdars or other actual proprietors of land, or dependent taluqdars or farmers of landholding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties. | The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793. |
| 1799 | V | To limit the interference of the Zila Court of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate. | The Bengal Wills and Intestacy Regulation, 1799. |
| 1800 | X | For preventing the division of landed estates in the Jangal Mahals of the Zila of Midnapore and other Districts. | The Bengal Inheritance Regulation, 1800. |

THE THIRD SCHEDULE—*contd*

| 1<br>Year | 2<br>No | 3<br>Subject | 4<br>Short title |
|---|---|---|---|
| *Part III —Regulations of the Bengal Code in force in Assam—*contd. | | | |
| 1* | * | * * * | * * * * |
| 1806 | XI | For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories | The Bengal Troops Transport and Travellers Assistance Regulation, 1806 |
| 1812 | XI | To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated, and in certain cases, to place and detain any such persons in safe custody, and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts | The Bengal Foreign Immigrants Regulation, 1812 |
| 1818 | III | For the confinement of State Prisoners | The Bengal State Prisoners Regulation, 1818. |
| 1819 | VIII | To declare the validity of certain tenures, and to define the relative rights of zamindars and patni taluqdars, also to establish a process for the sale of such taluqs in satisfaction of the zamindar's demand of rent | The Bengar Patni Taluqs Regulation, 1819 |

[1] The entry relating to Regulation 10 of 1804 was repealed by the Special Laws Repeal Act, 1922 (4 of 1922)

THE THIRD SCHEDULE—*concld.*

| 1<br>Year. | 2<br>No. | 3<br>Subject. | 4<br>Short title. |
|---|---|---|---|
| *Part III.—Regulations of the Bengal Code in force in Assam*—concld. | | | |
| 1820 | I | For providing that all sales of certain taluqs made answerable by sale for arrears by the zamindar's rent shall be conducted in the mode provided by Regulation VIII, 1819, for the sales therein described. | The Bengal Patni Taluqs Regulation, 1820. |
| 1823 | VII | For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence. | The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823. |
| 1825 | VI | For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories. | The Bengal Troops Transport Regulation, 1825. |
| ,, | XI | For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea. | The Bengal Alluvion and Diluvion Regulation, 1825. |
| 1827 | III | For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion. | The Bengal Corruption and Extortion Regulation, 1827. |
| ,, | V | For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases. | The Bengal Attached Estates Management Regulation, 1827. |
| 1829 | XVII | For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts. | The Bengal Sati Regulation, 1829. |

ACT No VI of 1897 [1]

[*4th March, 1897* ]

## An Act to amend the Negotiable Instruments Act, 1881

I of

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, It is hereby enacted as follows —

**1** (*1*) This Act may be called the Negotiable Instruments Act Amendment Act, 1897, [2]* Short title

2* * * * * * * *

**2** To section 72 of the said Act the following words shall be prefixed, namely, " Subject to the provisions of section 84 " Amendment of section 72, Act XXVI of 1881

**3** For section 84 of the said Act the following section shall be substituted, namely — Substitution of new section for section 84, Act XXVI of 1881

" 84 (*1*) Where a cheque is not presented for payment within a reasonable time of its issue and the drawer or person on whose account it is drawn had the right at the time when presentment ought to have been made as between himself and the banker to have the cheque paid and suffers actual damage through the delay he is discharged to the extent of such damage that is to say to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid When cheque not duly presented and drawer damaged thereby

(*2*) In determining what is a reasonable time regard shall be had to the nature of the instrument the usage of trade and of bankers and the facts of the particular case

(*3*) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor in lieu of such drawer or person of such banker to the extent of such discharge and entitled to recover the amount from him

*Illustrations*

(*a*) A draws a cheque for Rs 1 000 and when the cheque ought to be presented has funds at the bank to meet it The bank fails before the

[1] For Statement of Objects and Reasons *see* Gazette of India, 1896 Pt V, p 36 for Report of the Select Committee *see ibid*, 1897, Pt V, p 51 and for Proceedings in Council *see ibid* 1896 Pt VI, pp 79 and 250 and *ibid*, 1897, pp 39 and 54

As being part of the Negotiable Instruments Act, 1881 (26 of 1881), the Act is in force in the whole of Upper Burma (except the Shan States), *see* the Burma Laws Act 1898 (13 of 1898), Bur Code

[2] The word " and " at the end of sub-section (*1*) and sub-section (*2*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(*b*) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque."

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# THE REFORMATORY SCHOOLS ACT, 1897.

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(*I.—Preliminary.*)

## ACT No. VIII of 1897.[1]

[*11th March, 1897.*]

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders; It is hereby enacted as follows:—

*I.—Preliminary.*

Title and extent.

**1.** (*1*) This Act may be called the Reformatory Schools Act, 1897; [2]*

[2]* * * * * * *

(*3*) This section and section 2 shall extend to the whole of British India. The other sections shall extend in the first instance to the whole of British India except the territories for the time being administered by the Lieutenant-Governor of the [3]Punjab and the Chief Commissioner of [3]Coorg, but either of the said Local Governments may at any time, by notification in the local official Gazette, extend these sections to their territories from such day as may be fixed in any such notification.

Repeal of Act. of 1876.

**2.** (*1*) The Reformatory Schools Act, 1876, is hereby repealed.

(*2*) But all proceedings taken, orders passed, officers appointed or authorised and rules made under the said Act shall, as far as may be, be deemed to have been respectively passed, appointed or authorised and made under this Act.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 187; for Report of the Select Committee, *see ibid*, 1897, Pt. VI, p. 55, and for Proceedings in Council, *see ibid*, 1896, Pt. V, pp. 222 and 251; and *ibid*, 1896, Pt. VI, pp. 44 and 68.

The Act has been declared in force in Upper Burma (except the Shan States), *see* the Burma Laws Act, 1898 (13 of 1898), Bur. Code; in the Arakan Hill District by Regulation 1 of 1916.

It has also been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthál Parganas Justice and Laws Regulation, 1899 (3 of 1899), B. & O. Code, Vol. I; and in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), *see* B. and O. Code, Vol. I.

It has been declared in force in British Baluchistan by s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *see* Bal. Code.

The provisions of the Act in respect of youthful offenders, with the exception of s. 15, ceased to be in force in Madras where Mad. Act 4 of 1920 has been brought into force.

This Act is to be deemed to be repealed in Bengal (in areas to be notified) by Bengal Act 2 of 1922, Ben. Code.

[2] The word "and" at the end of sub-section (*1*), and sub-section (*2*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[3] Sections 3 to 32 (both inclusive) have been extended to the Punjab from 1st October, 1903, *see* Punjab Gazette, Extraordinary, dated 2nd October, 1903; to Coorg from 1st May, 1898, *see* Coorg Dist. Gazette, 1898, Pt. I, p. 26; and to the N.-W. F. P., *see* Gazette of India, 1910, Pt. II, p. 1101.

*(I.—Preliminary. II.—Reformatory Schools.)*

(3) Any enactment or document referring to the said Act shall, as far as may be, be construed to refer to this Act, or to the corresponding portions thereof.

882. **3.** From the date fixed by any notification issued under section 1, sub-section (3), section 399 of the [1] Code of Criminal Procedure, 1882, shall be repealed in the province to which the notification relates. Section 399 of Act X of 1882 repealed on date fixed by a notification under section 1, sub-section (3).

**4.** In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "youthful offender" means any boy who has been convicted of any offence punishable with transportation or imprisonment and who, at the time of such conviction, was under the age of fifteen[2] years:

(*b*) "Inspector General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector General: and

(*c*) "District Magistrate" shall include a Chief Presidency Magistrate.

## *II.—Reformatory Schools.*

**5.** [3] * * * * the Local Government may— Power to establish and discontinue Reformatory Schools.

(*a*)[4] establish and maintain Reformatory Schools at such places as it may think fit;

(*b*) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf;

(*c*) direct that any school so established or used shall [5] cease to exist as a Reformatory School or to be used as such.

**6.** Every school so established or used must provide— Requisites of schools.

(*a*) sufficient means of separating the inmates at night;

(*b*) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein;

(*c*) the means of giving such youthful offenders industrial training;

(*d*) an infirmary or proper place for the reception of such youthful offenders when sick.

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iminal Procedure, 1898 (Act 5 of 1898).
n Bombay by s. 4 of Bom. Act XIII of

of the Governor General in Council"
centralization Act, 1914 (4 of 1914).
tory School in the United Provinces,
Madras, *see* Mad. R. & O., Vol. I.
Burma, *see* Bur. Gazette, 1897, Pt. I,
P. Gazette, 1902, Pt. I, p. 524.

(*II.—Reformatory Schools.*)

Inspection of Reformatory Schools.

7. (*1*) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and [1]such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

(*2*) Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

Power of Courts to direct youthful offenders to be sent to Reformatory Schools.

8. (*1*) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct[2] that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years.

(*2*) The powers so conferred on the Court by this section shall be exercised only by (*a*) the High Court, (*b*) a Court of Session, (*c*) a District Magistrate, and (*d*) any [3]Magistrate specially empowered by the Local Government in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

(*3*) The Local Government may make rules for—

[4](*a*) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations, and

(*b*) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.[5]

Procedure where Magistrate is not empowered

9. (*1*) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted

[1] For instance of the publication of such a certificate, *see* C. P. R. and O.
[2] For delegation of powers of a Local Government to the Commissioner in Sindh under the section, *see* Bombay Government Gazette, 1912, Part I, p. 1193.
[3] For instance of a notification empowering certain Magistrates to exercise these powers, *see* U. P. R. and O., Vol. I.
[4] For rules made under this clause by the Punjab Government, *see* Punjab Gazette Extraordinary, dated 2nd October, 1903, p. 3; Govt. of Burma, *see* Burma Gazette, 1909, Pt. I, p. 697.
[5] For rules regulating the period for which youthful offenders may be sent to Reformatories, *see* different local Rules and Orders.

by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion and submit his proceedings and forward the youthful offender to the District Magistrate to whom he is subordinate

to pass an order under section 8

(*2*) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise as he might have passed if such youthful offender had been originally tried by him

Power of Magistrates to direct boys under fifteen sentenced to imprisonment to be sent to Reformatory Schools

**10** The officer in charge of a prison in which a youthful offender is confined, in execution of a sentence of imprisonment may bring him, if he has not then attained the age of fifteen years before the District Magistrate within whose jurisdiction such prison is situate, and such Magistrate may if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence he shall be sent to a Reformatory School and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8 with reference to the period of detention thereby authorised

Preliminary inquiry and finding as to age of youthful offender

**11** (*1*) Before directing any youthful offender to be sent to a Reformatory School under section 8 section 9, or section 10 the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary shall record a finding thereon, stating his age as nearly as may be

(*2*) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9 sub section (*1*)

Government to determine Reformatory School to which such offenders shall be sent.

**12** Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may by general or [1] special order appoint for the reception of youthful offenders so dealt with by such Court or Magistrate

Provided that if accommodation in a Reformatory School is not immediately available for such youthful offender he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(*a*) until he can be sent to a Reformatory School or

(*b*) until the term of his original sentence expires

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[1] For instance of such an order *see* Bur Gazette 1897 Pt I p 301, and U P R & O

whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released, but should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School.

Persons found to be over eighteen years not to be detained in Reformatory Schools.

**13.** (*1*) If at any time after a youthful offender has been sent to a Reformatory School it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period for which he has been ordered to be detained, they shall report the case for the orders of the Local Government.

(*2*) No person shall be detained in a Reformatory School after he has been found by the Local Government to have attained the age of eighteen years.

Discharge or removal by order of Government.

**14.** The Local Government may at any time order any youthful offender—

(*a*) to be discharged from a Reformatory School;

(*b*) to be removed from one Reformatory School to another such school situate within the territories subject to such Government: Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal.

Power to Governor General in Council to direct use of Reformatories in one province for reception of youthful offenders from another.

**15.** (*1*) The Governor General in Council may by [1] general or special order direct that any Reformatory School situated in one province shall be available for the reception of youthful offenders directed to be sent to any Reformatory School by any Court or Magistrate in any other province.

(*2*) Any such order may also provide for the removal of the youthful offender, and the cost of his maintenance, and may give any such further directions as may be necessary.

Certain orders not subject to appeal or revision.

**16.** Nothing contained in the [2]Code of Criminal Procedure, 1882, X of shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment.

*III.—Management of Reformatory Schools.*

Appointment of Superintendent and Committee of Visitors or Board of Management.

**17.** (*1*) For the control and management of every Reformatory School, the Local Government shall [3]appoint either (*a*) a Superintendent and a Committee of Visitors, or (*b*) a Board of Management.

[1] For notifications under this section, *see* different local Rules and Orders.
[2] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).
[3] For notification making such appointments, *see* different local Rules and Orders.

(*III —Management of Reformatory Schools* )

(*2*) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India

(*3*) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed

**18** (*1*) Every Superintendent so appointed may, with the sanction of the Committee, by license under his hand, permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years to live under the charge of any trustworthy and respectable person named in the license or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him on the condition that the employer shall keep such youthful offender employed at some trade occupation or calling

**Superintendent may license youthful offenders to employers of labour**

(*2*) The license shall be in force for three months and no longer, but may, at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time

**19** The license shall be cancelled at the desire of the employer named in the license

**Cancellation of license**

**20** If during the term of the license the employer named therein dies or ceases from business or to employ labour or the period for which the youthful offender has been directed to be detained in the Reformatory School expires the license shall thereupon cease and determine

**Determination of license.**

**21** If it appears to the Superintendent that the employer has ill treated the youthful offender or has not adequately provided for his lodging and maintenance the Superintendent may cancel the license

**Cancellation of license in case of ill treatment.**

**22** (*1*) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school within the meaning of Act No XIX of 1850 (*concerning the binding of apprentices*)

**Superintendent to be deemed guardian of youthful offenders.**

(*2*) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license the Superintendent may with the sanction of the Committee apprentice him under the provisions of the said Act and on such apprenticement the right to detain such youthful offender in a Reformatory School shall cease and the unexpired term (if any) of his sentence shall be cancelled

**Power to apprentice youthful offender**

**23** (*1*) Every Committee of Visitors appointed under section 17 for a Reformatory School shall at least once in every month,—

**Duties of Committee of Visitors.**

(*a*) visit the school, to hear complaints and see that the requirements of section 6 have been complied with and that the management of the school is proper in all respects,

*(III.—Management of Reformatory Schools.)*

(*b*) examine the punishment-book;

(*c*) bring any special cases to the notice of the Inspector-General; and

(*d*) see that no person is illegally detained in the school.

(*2*) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

Powers of Board of Management.

**24.** If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22, both inclusive; and the license mentioned in section 18 may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Power to appoint Trustees or other Managers of a school to be a Board of Management.

**25.** The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (*b*), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power of Board to make rules.

**26.** (*1*) With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

(*i*) to prescribe the articles which are to be deemed to be "prohibited articles"; and

(*ii*) to regulate—

(*a*) the conduct of business of the Board;

(*b*)[1] the management of the school;

(*c*) the education and industrial training of youthful offenders;

(*d*) visits to, and communication with, youthful offenders;

(*e*) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school;

(*f*) the manner in which such articles are to be removed when introduced without due authority;

(*g*) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein;

[1] For rules in force in different provinces, *see* different local Rules and Orders.

(h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned,

(i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority,

(j) the punishment of offences committed by youthful offenders and

(k) the granting of licenses for the employment of youthful offenders

(2) In the absence of a Board of Management the Local Government may make[1] rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub section (1), other than clause (ii) (a), and also the mode in which the Committee of Visitors shall conduct their business

### *IV.—Offences in relation to Reformatory Schools*

**27** Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein any prohibited article, Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both

**28** Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both Penalty for abetting escape of youthful offender

[1] For rules made under this sub section *see* local Rules and Orders

*(III.—Management of Reformatory Schools.)*

(*b*) examine the punishment-book;

(*c*) bring any special cases to the notice of the Inspector-General; and

(*d*) see that no person is illegally detained in the school.

(*2*) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

Powers of Board of Management.

**24.** If, in exercise of the power conferred by section 17, the Local Government appoints a *Board of Management* for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22, both inclusive; and the license mentioned in section 18 may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

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**25.** The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (*b*), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such *Board of Management*.

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(*c*) the education and industrial training of youthful offenders;

(*d*) visits to, and communication with, youthful offenders;

(*e*) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school;

(*f*) the manner in which such articles are to be removed when introduced without due authority;

(*g*) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein;

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[1] For rules in force in different provinces, *see* different local Rules and Orders.

(*h*) the conditions on which the possession by any such youthful offender of such articles may be sanctioned;

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(*2*) In the absence of a Board of Management the Local Government may make [1] rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub-section (*1*), other than clause (*ii*) (*a*), and also the mode in which the Committee of Visitors shall conduct their business

### *IV—Offences in relation to Reformatory Schools*

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

**27.** Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article,

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both

Penalty for abetting escape of youthful offender

**28.** Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both

[1] For rules made under this sub-section, see local Rules and Orders

Arrest of escaped youthful offender.

**29.** A Police-officer may, without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

## *V.—Miscellaneous.*

**30.** [*Application of Act 15 of 1869 to youthful offenders detained in Reformatory Schools.*] *Rep., Act 3 of 1900.*

Power to deal in other ways with youthful offenders, including girls.

**31.** (*1*) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

(*a*) discharged after due admonition, or

(*b*) delivered to his parent or to his guardian or nearest adult relative, or such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

(*2*) For the purposes of this section the term "youthful offender" shall include a girl.

(*3*) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

(*4*) When any youthful offender is convicted by a Court not empowered to act under this section and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate.

(*5*) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him.

Procedure when youthful offender under detention in a Reformatory School is again convicted and sentenced.

**32.** When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such Court shall commence at once, notwithstanding anything to the contrary in section 397 of the [1] Code of Criminal Procedure, 1882, but the Court shall forthwith report the matter to the Local Government, which shall have power to deal with the matter in any way in which it thinks fit.

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[1] *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898).

# THE GENERAL CLAUSES ACT, 1897

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(*2*) For the purposes of this section the term "youthful offender" shall include a girl.

(*3*) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

(*4*) When any youthful offender is convicted by a Court not empowered to act under this section and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate.

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[1] *See now* the Code of Criminal Procedure, 1898 (Act 5 of 1898).

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THE SCHEDULE—ENACTMENTS REPEALED. *(Repealed.)*

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ACT No. X OF 1897.[1]

[*11th March, 1897.*]

## An Act to consolidate and extend the General Clauses Acts, 1868 and 1887.

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 and 1887; It is hereby enacted as follows:— I of 1868. I of 1887.

*Preliminary.*

Short title.

**1.** (*1*) This Act may be called the General Clauses Act, 1897; [2] *
[2]* * * * *

**2.** [*Repeal.*] *Rep. by the Repealing and Amending Act, 1903* (*1 of 1903*).

*General Definitions.*

Definitions.

**3.** In this Act, and in all Acts of the Governor General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

"Abet."

(*1*) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code: XLV of 18

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 38; for Report of the Select Committee, *see ibid*, p. 77, and for Proceedings in Council, *see ibid*, Pt. VI, pp. 35, 40, 56 and 76.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), *see* the Fifth Schedule, Bur. Code; in the Arakan Hill District by s. 2 of Regulation I of 1916, *Burma Code*; in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, B. & O. Code, Vol. I; in the Chittagong Hill Tracts by the Chittagong Hill Tracts Regulation, 1900 (1 of 1900), Ben. Code, Vol. I; in the Angul District, under s. 3 of the Angul Laws Regulation, 1913 (3 of 1913), B. & O. Code, Vol. I; and in the Pargana of Manpur, Reg. 2 of 1926, s. 2.

It has been declared in force in British Baluchistan by s. 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913), *see* Bal. Code.

[2] The word "and" at the end of sub-section (*1*), and sub-section (*2*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

(*General Definitions*)

(2) [1] "act," used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions "Act"

(3) [2] "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing "Affidavit"

[3][(3a) "Assam Act" shall mean an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Acts, 1861 to 1909] [4][or the Government of India Act, 1915] "Assam Act"

(4) "barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland Barrister

[5][(5) "Bengal Act" shall mean, in the case of Acts passed prior to the 1st April, 1912, an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909, and in the case of Acts passed after that date, an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909] [4][or the Government of India Act, 1915] Bengal Act

Vict, & 

[3][(5a) "Bihar and Orissa Act" shall mean an Act made by the Lieutenant Governor of Bihar and Orissa in Council under the Indian Councils Acts, 1861 to 1909,] [4][or the Government of India Act, 1915] Bihar and Orissa Act

(6) "Bombay Act" shall mean an Act made by the Governor of Bombay in Council under [6][the Indian Councils Act, 1861, or] the [7]Indian Councils Acts, 1861 and 1892, [8][or the Bombay Act

Vict., & c

[1] *Cf* the Indian Penal Code (Act 45 of 1860), and the Madras General Clauses Act 1891 (Mad Act 3 of 1891) Mad Code, Vol II

[2] *Cf* the definitions of "Oath" and "Swear" in sub-sections (*36*) and (*55*) respectively *infra* As to affidavits in civil proceedings *see* Code of Civil Procedure (Act 5 of 1908) First Schedule Order 19, as to criminal proceedings, *see* Code of Criminal Procedure, 1898 (Act 5 of 1898)

[3] This definition was added by the Repealing and Amending Act 1914 (10 of 1914)

[4] These words were added by the Repealing and Amending Act, 1917 (24 of 1917)

[5] This clause was substituted by the Repealing and Amending Act, 1914 (10 of 1914)

[6] These words were inserted by the Repealing and Amending Act, 1903 (1 of 1903), s 3

[7] Coll Stats, Vols I and II, respectively

[8] These words were added by the Repealing and Amending Act 1914 (10 of 1914)

*(General Definitions.)*

Indian Councils Acts, 1861 to 1909,] [1][or the Government of India Act, 1915]:

"British India." (7) [2] "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India:

"British possession." (8) [3] "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession:

"Burma Act." [4][(8a) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the [5]Indian Councils Acts, 1861 and 1892,] [6][or the Indian Councils Acts, 1861 to 1909,] [1][or the Government of India Act, 1915]:

"Central Provinces Act." [7][(8b) "Central Provinces Act" shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1909,] [1][or the Government of India Act, 1915]:

"Chapter." (9) "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs:

"Collector." (10) [8] "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer in charge of the revenue-administration of a district:

"Colony." (11) [9] "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony:

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[1] These words were added by the Repealing and Amending Act, 1917 (24 of 1917).

[2] *Cf.* the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (4), Coll. Stats., Vol. II. For definition of "India" *see* sub-sec. (27), *infra*.

[3] *Cf. ibid*, s. 18 (2).

[4] This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3.

[5] Coll. Stats., Vols. I and II, respectively.

[6] These words were added by the Repealing and Amending Act, 1914 (10 of 1914).

[7] This clause was inserted by the Second Repealing and Amending Act, 1914 (17 of 1914).

[8] *Cf.* the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), s. 3 (12), and the U. P. General Clauses Act, 1887 (U. P. Act 1 of 1887), s. 2 (12), Bom. Code, Vol. IV, and the U. P. Code, Vol. II, respectively.

[9] *Cf.* the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (3) Coll. Stats., Vol. II.

(*General Definitions*)

(*12*) "commencement,"[1] used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force "Commencement."

(*13*) [2] "Commissioner" shall mean the chief officer in charge of the revenue-administration of a division "Commissioner"

(*14*) [3] "consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul general, consul, vice-consul or consular agent "Consular officer"

(*15*) [4] "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction "District Judge"

(*16*) [5] "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter "Document"

[6][(*16a*) "Eastern Bengal and Assam Act" shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909] "Eastern Bengal and Assam Act"

(*17*) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid "Enactment"

(*18*) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father "Father"

(*19*) [7] "financial year" shall mean the year commencing on the first day of April "Financial year"

(*20*) [8] a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not: "Good faith"

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[1] [illegible] e into force, *see* s 5 *infra*
[2] [illegible] I of 1887), U P Code
[3] [illegible] Vict, c 36), s 3
[4] [illegible] (*24*), *infra*
[5] *Cf* the Indian Evidence Act, 1872 (1 of 1872) As to definition of "written," *see* sub-section (*58*), *infra*
[6] This clause was inserted by the Repealing and Amending Act, 1914 (10 of 1914)
[7] *Cf* the Interpretation Act, 1889 (52 & 53 Vict, c 63), s 22, Coll Stats, Vol II
[8] *Cf* the Bills of Exchange Act 1882 (45 & 46 Vict, c 61), s 90, and the Sale of Goods Act, 1893 (56 & 57 Vict, c 71), s 62 *Cf* also s 52 of the Indian Penal Code (Act 45 of 1860).
As to discussion in Council regarding definition of "good faith," *see* Gazette of India, 1897, Pt VI, pp. 56 to 62 and 76 to 79

(*General Definitions.*)

"Government." (*21*) [1] "Government" or "the Government" shall include the Local Government as well as the Government of India:

"Government of India." (*22*) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively;

[2]* * * * * *

"High Court." (*24*) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates:

"Immoveable property." (*25*) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth:[3]

"Imprisonment." (*26*) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code: XLV

"India." (*27*) [4] "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India:

"Local authority." (*28*) [5] "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund:

"Local Government." (*29*) [6] "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner:

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[1] As to definition of Local Government, *see* sub-section (*29*), *infra*.

[2] Clause (*23*) was repealed by the Repealing and Amending Act, 1919 (18 of 1919).

[3] As to growing crops and timber so far as they are affected by the Indian Registration Act, 1908 (16 of 1908), *see* s. 2 (*6*) of that Act.

[4] *Cf.* the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (*5*), Coll. Stats., Vol. II.

[5] *Cf.* the Local Authorities Loan Act, 1914 (9 of 1914).

[6] There are at present fifteen Local Governments in British India, namely:—the Governors of Madras, Bombay, Bengal, the U. P. of Agra and Oudh, the Punjab, Bihar and Orissa, Assam, the Central Provinces and Burma in Council; and the Chief Commissioners of Ajmer-Merwara, Coorg, British Baluchistan, Delhi, and of the N.-W. Frontier Province and the Chief Commissioner of the Andaman and Nicobar Islands. The Commissioner in Sindh exercises by delegation certain powers of a Local Government, *see* Act 5 of 1868 (Commissioner in Sindh), Bom. Code, Vol. I.

*(General Definitions.)*

(*30*) "Madras Act" shall mean an Act made by the Governor of Fort St. George in Council under [1] [the Indian Councils Act, 1861, or] the [2]Indian Councils Acts, 1861 and 1892, [3][or the Indian Councils Acts, 1861 to 1909,] [4][or the Government of India Act, 1915]: "Madras Act."

(*31*) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force[5]. "Magistrate."

(*32*) [6] "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship: "Master" (of a ship).

(*33*) "month" shall mean a month reckoned according to the British calendar "Month."

(*34*) "moveable property" [7] shall mean property of every description, except immoveable property "Moveable property."

(*35*) [8] "North-Western Provinces and Oudh Act" shall mean an Act made by the [8]Lieutenant-Governor of the North-Western Provinces and Oudh in Council under [1] [the Indian Councils Act, 1861, or] [2] the Indian Councils Acts, 1861 and 1892 "North-Western Provinces and Oudh Act."

(*36*) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: "Oath."

(*37*) [9] "offence" shall mean any act or omission made punishable by any law for the time being in force: "Offence."

(*38*) "Part" shall mean a Part of the Act or Regulation in which the word occurs "Part."

(*39*) "person" shall include any company or association or body of individuals, whether incorporated or not: "Person."

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[1] These words were inserted by the Repealing and Amending Act, 1903 (1 of 1903), s 3

[2] Coll Stats, Vol II

[3] These words were added by the Repealing and Amending Act, 1914 (10 of 1914)

[4] These words were added by the Repealing and Amending Act, 1917 (24 of 1917)

[5] The Code now in force is Act 5 of 1898

[6] *See* s 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict, c 60), Coll. Stats, Vol II

[7] For a comprehensive definition of the word "property," *see* s 168 of the Bankruptcy Act, 1883 (46 & 47 Vict, c 52)

[8] Read now "United Provinces [illegible]
of the United Provinces of Agra an [illegible]
United Provinces (Designation) Act [illegible]

[9] *See* a similar definition in s. 4 [illegible]
5 of 1898)

*(General Definitions.)*

"Political Agent." (40) "Political Agent" shall include—

(a) the principal officer representing the Government in any territory or place beyond the limits of British India, and

(b) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition:

"Presidency town." (41) [1] "Presidency-town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be:

"Privy Council." (42) [2] "Privy Council" shall mean the Lords and others for the time being of Her Majesty's Most Honourable Privy Council:

"Province." (43) [3] "Province" shall mean the territories for the time being administered by any Local Government:

"Public nuisance." (44) "public nuisance" shall mean a public nuisance[4] as defined in the Indian Penal Code: XLV o

"Punjab Act." [5][(44a) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892,] [6][or the Indian Councils Acts, 1861 to 1909,] [7][or the Government of India Act, 1915]: 24 and Vict., c and 55 Vict., c

"Registered." (45) [8] "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents:

"Regulation." (46) "Regulation" shall mean a Regulation made under the Government of India Act, 1870,[9] [7][or the Government of India Act, 1915]: 33 Vict.

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[1] *See* s. 4 (*h*) of the repealed Code of Criminal Procedure, 1882 (Act 10 of 1882), and *Cf.* s. 3 (*25*) of the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), Mad. Code, Vol. II.

[2] *Cf.* s. 12 (*5*) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats., Vol. *II*.

[3] *Cf.* s. 4 (*o*) of the repealed Code of Criminal Procedure, 1882 (Act 10 of 1882).

[4] As to procedure in the case of public nuisances, *see* Code of Criminal Procedure, 1898 (Act 5 of 1898), Ch. X.

[5] This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3.

[6] These words were added by the Repealing and Amending Act, 1914 (10 of 1914).

[7] These words were added by the Repealing and Amending Act, 1917 (24 of 1917).

[8] *Cf.* the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), s. 3 (*11*), Mad. Code, Vol. II. As to law now in force, *see* the Indian Registration Act, 1908 (16 of 1908).

[9] Coll. Stats., Vol. II.

(*General Definitions* )

(*47*) " rule " shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment [1] "Rule."

(*48*) " schedule " shall mean a schedule to the Act or Regulation in which the word occurs "Schedule."

(*49*) " Scheduled District " shall mean a " Scheduled District " as defined in the Scheduled Districts Act, 1874 "Scheduled District."
1874

(*50*) " section " shall mean a section of the Act or Regulation in which the word occurs "Section."

(*51*) [2] " ship " shall include every description of vessel used in navigation not exclusively propelled by oars "Ship"

(*52*) [3] " sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include " mark," with its grammatical variations and cognate expressions "Sign."

(*53*) "son," in the case of any one whose personal law permits adoption, shall include an adopted son "Son."

(*54*) " sub section " shall mean a sub section of the section in which the word occurs "Sub-section."

(*55*) [4] " swear," with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing "Swear"

[5][(*55a*) " United Provinces Act " shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892,] [6][or the Indian Councils Acts, 1861 to 1909,] [7][or the Government of India Act, 1915] "United Provinces Act."
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. 67,
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[1] The provisions of ss 20 to 24, *infra*, apply to rules defined in this sub-section

[2] *Cf* s 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict , c 60), Coll Stats , Vol II

[3] *See* also definition of " writing " in sub-section 58, *infra*

[4] *See* also definitions of " affidavit " and " oath " *supra*, sub-sections (*3*) and (*36*), respectively, and as to oaths, *see* the Indian Oaths Act, 1873 (10 of 1873)

[5] This clause was inserted by the Repealing and Amending Act 1903 (1 of 1903), s 3

[6] These words were added by the Repealing and Amending Act, 1914 (10 of 1914)

[7] These words were added by the Repealing and Amending Act, 1917 (24 of 1917,

*(General Definitions. General Rules of Construction.)*

"Vessel." (56) [1] "vessel" shall include any ship or boat or any other description of vessel used in navigation:

"Will." (57) [2] "will" shall include a codicil and every writing making a voluntary posthumous disposition of property:

"Writing." (58) [3] expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form: and

"Year." (59) [4] "year" shall mean a year reckoned according to the British calendar.

Application of foregoing definitions to previous enactments.

**4.** (1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrister," "British India," "District Judge," "father," "Government of India," [5] * * * * "High Court," "immoveable property," "imprisonment," "Local Government," "Magistrate," "month," "moveable property," "oath," "person," "section," "son," "swear," "will" and "year," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said section of the following words and expressions, that is to say, "abet," "Chapter," "commencement," "financial year," "local authority," "master," "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section" and "writing," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

*General Rules of Construction.*

Coming into operation of enactments.

**5.** (1) Where any Act of the Governor General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor General.

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[1] *Cf.* s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats., Vol. II. This definition supplements the definition of ship in sub-section (51), *supra*. *See* also definition of vessel in s. 48 of the Indian Penal Code, 1860 (Act 45 of 1860), and in s. 3 (4) of the Northern India Canal and Drainage Act, 1873 (8 of 1873), U. P. Code, Vol. I, and in s. 3 (f) of the Sea Customs Act, 1878 (8 of 1878).

[2] *See* the definition of "will" in s. 2 of the Indian Succession Act, 1925 (39 of 1925).

[3] *Cf.* s. 20 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats., Vol. II.

[4] As to "financial year" *see* sub-section (19), *supra*.

[5] The words "'Her Majesty,' or 'the Queen,'" were repealed by the Repealing and Amending Act, 1919 (18 of 1919).

(*General Rules of Construction* )

[1][(*2*) Where any Act of the Governor General in Council is reserved, under section 68 of the Government of India Act, 1915, for the signification of His Majesty's pleasure thereon, then, if no later date is expressed, it shall come into operation, if assented to by His Majesty, on the day on which that assent is duly notified ]

Geo 5,

[2](*3*) Unless the contrary is expressed, an Act of the Governor General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement

**Effect of repeal**

**6** [3] Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect, or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder, or

(*c*) affect any right privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed, or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed, or

(*e*) affect any investigation legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed

**Revival of repealed enactments.**

**7.** [4] (*1*) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887

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[1] This sub-section was substituted by the Repealing and Amending Act, 1917 (24 of 1917)

[2] *Cf* s 36 (2) of the Interpretation Act 1889 (52 & 53 Vict , c 63), Coll Stats , Vol II

As to power to make rules between the passing and commencement of an Act which does not come into force at once *see* s 22, *infra*

[3] *Cf* s 38 of the Interpretation Act 1889 (52 & 53 Vict , c 63), Coll Stats , Vol II

[4] *Cf* s 11, *ibid*

*(General Rules of Construction.)*

Construction of reference to repealed enactments.

[1][8. *(1)*][2] Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

[3][*(2)* Where any Act of Parliament repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any Act of the Governor General in Council or in any Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.]

Commencement and termination of time.

9. *(1)* In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word " from," and, for the purpose of including the last in a series of days or any other period of time, to use the word " to ".

*(2)* This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Computation of time.

**10.**[4] *(1)* Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the [5]Indian Limitation Act, 1877, applies. XV of

*(2)* This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

Measurement of distances.

**11.**[6] In the measurement of any distance, for the purposes of any Act of the Governor General in Council or Regulation made after the com-

[1] This section was re-numbered by the Repealing and Amending Act, 1919 (18 of 1919).

[2] *Cf.* s. 38 *(1)* of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats., Vol. II. *See* a similar provision in s. 3 of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[3] Sub-section *(2)* was added by the Repealing and Amending Act, 1919 (18 of 1919).

[4] *See* the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), s. 11, Mad. Code, Vol. II.

[5] *See* now Act 9 of 1908.

[6] *Cf.* s. 34 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats., Vol. II.

mencement of this Act, distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane

12. Where, by any enactment[1] now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity. Duty to be taken *pro rata* in enactments.

13. In all Acts of the Governor General in Council and Regulations, unless there is anything repugnant in the subject or context,— Gender and number

(*1*) words importing the masculine gender shall be taken to include females, and

(*2*) words in the singular shall include the plural, and *vice versâ*

[2][**13A.** In all Acts of the Governor General in Council and Regulations, references to the Sovereign or to the Crown shall, unless a different intention appears, be construed as references to the Sovereign for the time being ] References to the Sovereign

*Powers and Functionaries*

**14.** (*1*) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any power is conferred [3]* * * *, then, [4][unless a different intention appears,] that power may be exercised from time to time as occasion requires Powers conferred on the Government to be exercisable from time to time

(*2*) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887

**15** Where, by any Act of the Governor General in Council or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office [5] Power to appoint to include power to appoint *ex officio*

**16** Where, by any Act of the Governor General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power [6] Power to appoint to include power to suspend or dismiss

**17.** (*1*) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the Substitution of functionaries

[1] As to definition of "enactment" see s 3, sub section (*17*) *supra*

[2] This section was inserted by the Repealing and Amending Act 1919 (18 of 1919)

[3] The words "on the Government" were omitted by *ditto*

[4] These words were inserted by *ditto*

[5] *See* similar provision in s 39 of the Code of Criminal Procedure, 1898 (Act 5 of 1898)

[6] *See* as to this provision the Statement of Objects and Reasons quoted, *supra*

*(Provisions as to Orders, Rules, etc., made under Enactments. Miscellaneous.)*

bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

**24.**[1] Where any Act of the Governor General in Council or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any [2] [appointment, notification], order, scheme, rule, form or bye-law, [2][made or] issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been [2][made or] issued under the provisions so re-enacted, unless and until it is superseded by any [2] [appointment, notification,] order, scheme, rule, form or bye-law [2][made or] issued under the provisions so re-enacted, [3][and when any Act of the Governor General in Council or Regulation, which, by a notification under section 5 or 5A of the Scheduled Districts Act, 1874, or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section]. XIV of

## *Miscellaneous.*

Recovery of fines.

**25.** Sections 63 to 70 of the Indian Penal Code and the provisions of the [4]Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary. XLV of

Provision as to offences punishable under two or more enactments.

**26.** Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence[5].

Meaning of service by post.

**27.**[6] Where any Act of the Governor General in Council or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used,

[1] *Cf.* s. 18 of the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), Mad. Code, Vol. II.

[2] These words were inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3.

[3] These words were added by the Second Repealing and Amending Act, 1914 (17 of 1914).

[4] *See* now s. 386 *et seq.* of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[5] As to definition of "offence" *see* sub-section (37) of section 3, *supra*.

[6] *Cf.* s. 26 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats., Vol. II.

*(Miscellaneous)*

then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre paying and posting by registered post, a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post

Citation of enactments

**28** [1] (*1*) In any Act of the Governor General in Council or Regulation and in any rule, bye law, instrument or document, made under, or with reference to, any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub section of the enactment in which the provision is contained

(*2*) In this Act and in any Act of the Governor General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation

Saving for previous enactments, rules and bye laws

**29** [2] The provisions of this Act respecting the construction of Acts, Regulations, rules or bye laws made after the commencement of this Act shall not affect the construction of any Act, Regulation rule or bye law made before the commencement of this Act although the Act Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye law made after the commencement of this Act

Application of Act to Ordinances

[3][**30.** In this Act the expression "Act of the Governor General in Council," wherever it occurs, except in section 5, and the word "Act" in clauses (9), (12), (38), (48), and (50) of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by the Governor General under section 23 of the Indian Councils Act, 1861 ] [4][or section 72 of the Government of India Act, 1915]

25 Vict,

Application of Act to Acts made by the Governor General.

[5][**30A.** In this Act the expression "Act of the Governor General in Council," wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act ]

[1] *Cf* s 35 of the Interpretation Act, 1889 (52 & 53 Vict , c 63) Short titles have been conferred on the unrepealed General Acts of the Governor General in Council which had previously no short titles, *see* the Indian Short Titles Act, 1897 (14 of 1897)

[2] *Cf* s 40 of the Interpretation Act, 1889 (52 & 53 Vict , c 63) Coll Stats , Vol II

[3] This section was added by the Second Repealing and Amending Act 1914 (17 of 1914)

[4] These words were added by the Repealing and Amending Act 1917 (24 of 1917)

[5] Section 30A was inserted by s 2 and Sch 1 of the Repealing and Amending Act, 1923 (11 of 1923)

Construction of references to Local Government of a Province.

[1][31. In any enactment made by any authority in British India before the date on which section 3 of the Government of India Act, 1919, comes into operation, and in any rule, order, notification, scheme, bye-law or other document made under or with reference to any such enactment, any reference by whatever form of words to an authority authorized by law, at the time the enactment was made, to administer executive Government in any part of British India shall, where a corresponding new authority has been constituted by the Government of India Act, 1919, be construed for all purposes, after the abovementioned date, as a reference to such new authority.]

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## THE SCHEDULE.

ENACTMENTS REPEALED.

[*Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*]

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## ACT No. XIV OF 1897.[2]

[*22nd July, 1897.*]

### An Act to facilitate the citation of certain Acts.

WHEREAS it is expedient to facilitate the citation of certain Acts; It is hereby enacted as follows:—

Title.

1. (*1*) This Act may be called the Indian Short Titles Act, 1897; [3]*

[3] * * * * * * *

Citation of Acts described in schedule.

2. *Each of the Acts described in the first three columns of the schedule* may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

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[1] This section was added by s. 2 and Sch. I of the Repealing and Amending Act, 1920 (31 of 1920).

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 110, and for Proceedings in Council, *see ibid*, 1897, pp. 206 and 217.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code; in the Arakan Hill District by s. 2 of Regulation 1 of 1916, Burma Code; in the Angul District, by the Angul Laws Regulation, 1913 (3 of 1913), *see* B. and O. Code; in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), *see* Bal. Code.

[3] The word "and" at the end of sub-section (*1*). and sub-section (*2*) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

## THE SCHEDULE.[1]

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short title. |
| 1834 | II | Authorising Secretaries to Government to exercise powers of Chief Secretaries. | The Secretaries to Government Act, 1834 |
| 1837 | IV | Empowering all subjects of Her Majesty to hold land. | The Property in Land Act, 1837. |
| 1838 | XXV | Wills . . . . . . . . | The Wills Act, 1838. |
| 1839 | XXIX | Amending the Law relating to Dower . . | The Dower Act, 1839. |
| " | XXX | Amending the Law of Inheritance . . | The Inheritance Act, 1839. |
| " | XXXII | Concerning the allowance of interest in certain cases. | The Interest Act, 1839. |
| 1841 | X | [illegible] | The Indian Registration of Ships Act, 1841. |
| [2]* | * | * * * * | * * |
| 1841 | XXIV | Providing for the greater uniformity of the Law [illegible] | The Illusory Appointments and Infants' Property Act, 1841. |
| [3]* | * | * * * * | * * |
| 1843 | V | Declaring and amending the Law regarding the condition of Slavery within the territories of the East India Company. | The Indian Slavery Act, 1843. |
| 1846 | I | [illegible] | The Legal Practitioners Act, 1846. |
| [4]* | * | * * * * | * * |

[1] Acts to which short titles have been given by [illegible] the Governor [illegible]

[2] [illegible] relating to Act 19 of 1841 was repealed by s. 2 and Sch. of Act 12 of 1927.

[3] The entry relating to Act 27 of 1841 was repealed by *ibid.*

[4] The entry relating to Act 20 of 1847 was repealed by *ibid.*

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short title. |
| 1848 | XV | Forbidding trading by the Officers of the Supreme Courts. | The Supreme Courts' Officers Trading Act, 1848. |
| 1850 | V | Providing for freedom of the Coasting Trade of India. | The Indian Coasting Trade Act, 1850. |
| " | XI | Amending Act X, 1841 . . . . | The Indian Registration of Ships Act (1841) Amendment Act, 1850. |
| " | XII | *Providing for avoiding loss by the default of Public Accountants.* | The Public Accountants' Default Act, 1850. |
| " | XVIII | Providing for the protection of Judicial Officers | The Judicial Officers' Protection Act, 1850. |
| " | XIX | Concerning the binding of Apprentices . . | The Apprentices Act, 1850. |
| " | XXI | Extending the principle of section 9, Regulation VIII, 1832, of the Bengal Code throughout the territories subject to the Government of the East India Company. | The Caste Disabilities Removal Act, 1850. |
| " | XXXIV | Providing for the better Custody of State Prisoners. | The State Prisoners Act, 1850. |
| 1851 | VIII | Enabling Government to levy Tolls on Public Roads and Bridges. | The Indian Tolls Act, 1851. |
| 1852 | VIII | Providing for the remuneration of the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under the Code of Criminal Procedure, 1882, and the Code of Civil Procedure. | The Sheriffs' Fees Act, 1852. |
| [1]* | * | * * * * | * * * |
| 1853 | II | Removing doubts as to the liability of all subjects of Her Majesty to the same jurisdiction as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers. | The Landholders' Public Charges and Duties Act, 1853. |
| " | XX | Amending the Law relating to Pleaders in the Courts of the East India Company. | The Legal Practitioners Act, 1853. |
| 1854 | XXXI | *Simplifying the modes of conveying land in cases to which the English Law is applicable.* | The Conveyance of Land Act, 1854. |
| 1855 | XI | Relating to Mesne *Profits* and to improvements made by holders under defective titles in cases to which the English Law is applicable. | The Mense Profits and Improvements Act, 1855. |

[1] The entry relating to Act 30 of 1852 was repealed by the Indian Naturalization Act, 1926 (7 of 1926).

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject | Short title |
| 1855 | XII | Enabling Executors, Administrators or Representatives to sue and be sued for certain wrongs | The Legal Representatives' Suits Act, 1855 |
| " | XIII | Providing compensation to families for loss occasioned by the death of a person caused by actionable wrong | The Indian Fatal Accidents Act, 1855 |
| " | XXIII | Amending the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage | The Mortgaged Estates Administration Act, 1855 |
| " | XXIV | Substituting penal servitude for the punishment of transportation in respect of European and American Convicts | The Penal Servitude Act, 1855 |
| " | XXVIII | Repealing the Usury Laws | The Usury Laws Repeal Act, 1855 |
| 1856 | IX | Amending the law relating to Bills of Lading | The Indian Bills of Lading Act, 1856 |
| " | XI | Providing for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India | The European Deserters Act, 1856 |
| " | XV | Removing all legal obstacles to the marriage of Hindu Widows | The Hindu Widows' Re-marriage Act, 1856 |
| 1857 | II | Providing for the establishment and incorporation of a University at Calcutta | The Calcutta University Act, 1857 |
| [1]* | * | * * * * | * * |
| 1857 | XXII | Providing for the establishment and incorporation of a University at Bombay. | The Bombay University Act, 1857 |
| [2]* | * | * * * * | * * |
| [3]* | * | * * * * | * * |
| 1858 | III | Amending the Law relating to the arrest and detention of State Prisoners | The State Prisoners Act 1858 |
| [4]* | * | * * * * | * * |
| [5]* | * | * * * * | * * |
| 1859 | IX | Providing for the adjudication of claims to property seized or forfeited | The Forfeiture Act, 1859. |

[1] The entry relating to Act II of 1857 was repealed by the Special Laws Repeal Act, 1922 (4 of 1922)

[2] The entry relating to Act 25 of 1857 was repealed by *ibid*

[3] The entry relating to Act 27 of 1857 was repealed by s. 2 and Sch. of Act 12 of 1927.

[4] The entries relating to Acts 34, 35 and 36 of 1858 were repealed by *ibid*

[5] The entry relating to Act 1 of 1859 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923)

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short title. |
| 1848 | XV | Forbidding trading by the Officers of the Supreme Courts. | The Supreme Courts' Officers Trading Act, 1848. |
| 1850 | V | Providing for freedom of the Coasting Trade of India. | The Indian Coasting Trade Act, 1850. |
| " | XI | Amending Act X, 1841 . . . . | The Indian Registration of Ships Act (1841) Amendment Act, 1850. |
| " | XII | Providing for avoiding loss by the default of Public Accountants. | The Public Accountants' Default Act, 1850. |
| " | XVIII | Providing for the protection of Judicial Officers | The Judicial Officers' Protection Act, 1850. |
| " | XIX | Concerning the binding of Apprentices . . | The Apprentices Act, 1850. |
| " | XXI | Extending the principle of section 9, Regulation VIII, 1832, of the Bengal Code throughout the territories subject to the Government of the East India Company. | The Caste Disabilities Removal Act, 1850. |
| " | XXXIV | Providing for the better Custody of State Prisoners. | The State Prisoners Act, 1850. |
| 1851 | VIII | Enabling Government to levy Tolls on Public Roads and Bridges. | The Indian Tolls Act, 1851. |
| 1852 | VIII | Providing for the remuneration of the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under the Code of Criminal Procedure, 1882, and the Code of Civil Procedure. | The Sheriffs' Fees Act, 1852. |
| 1* | * | * * * * | * * |
| 1853 | II | Removing doubts as to the liability of all subjects of Her Majesty to the same jurisdiction as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers. | The Landholders' Public Charges and Duties Act, 1853. |
| " | XX | Amending the Law relating to Pleaders in the Courts of the East India Company. | The Legal Practitioners Act, 1853. |
| 1854 | XXXI | Simplifying the modes of conveying land in cases to which the English Law is applicable. | The Conveyance of Land Act, 1854. |
| 1855 | XI | Relating to Mesne Profits and to improvements made by holders under defective titles in cases to which the English Law is applicable. | The Mense Profits and Improvements Act, 1855. |

1 The entry relating to Act 30 of 1852 was repealed by the Indian Naturalization Act, 1926 (7 of 1926).

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject | Short title |
| 1855 | XII | Enabling Executors, Administrators or Representatives to sue and be sued for certain wrongs | The Legal Representatives' Suits Act, 1855 |
| " | XIII | Providing compensation to families for loss occasioned by the death of a person caused by actionable wrong | The Indian Fatal Accidents Act 1855 |
| " | XXIII | Amending the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage | The Mortgaged Estates Administration Act, 1855 |
| " | XXIV | Substituting penal servitude for the punishment of transportation in respect of European and American Convicts | The Penal Servitude Act, 1855 |
| " | XXVIII | Repealing the Usury Laws | The Usury Laws Repeal Act, 1855 |
| 1856 | IX | Amending the law relating to Bills of Lading | The Indian Bills of Lading Act 1856 |
| " | XI | Providing for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India | The European Deserters Act, 1856 |
| " | XV | Removing all legal obstacles to the marriage of Hindu Widows | The Hindu Widows' Remarriage Act, 1856 |
| 1857 | II | Providing for the establishment and incorporation of a University at Calcutta. | The Calcutta University Act, 1857 |
| 1* | * | * * * * | * * |
| 1857 | XXII | Providing for the establishment and incorporation of a University at Bombay. | The Bombay University Act, 1857 |
| 2* | * | * * * * | * * |
| 3* | * | * * * * | * * |
| 1858 | III | Amending the Law relating to the arrest and detention of State Prisoners | The State Prisoners Act, 1858 |
| 4* | * | * * * * | * * |
| 5* | * | * * * * | * * |
| 1859 | IX | Providing for the adjudication of claims to property seized or forfeited | The Forfeiture Act, 1859 |

1 The entry relating to Act II of 1857 was repealed by the Special Laws Repeal Act, 1922 (4 of 1922).

2 The entry relating to Act 25 of 1857 was repealed by *ibid*.

3 The entry relating to Act 27 of 1857 was repealed by s. 2 and Sch. of Act 12 of 1927.

4 The entries relating to Acts 34, 35 and 36 of 1858 were repealed by *ibid*.

5 The entry relating to Act 1 of 1859 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923).

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short title. |
| [1]* | * | * * * * | * * |
| 1860 | IX | Making provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers. | The Employers and Workmen (Disputes) Act, 1860. |
| " | XXI | Providing for the Registration of Literary, Scientific and Charitable Societies. | The Societies Registration Act, 1860. |
| " | XXXIV | Indemnifying Officers of Government and other persons in respect of fines and contributions levied, and acts done, by them during the late disturbances. | The Government Officers' Indemnity Act, 1860. |
| [2]* | * | * * * * | * * |
| 1861 | V | Providing for the Regulation of Police . . | The Police Act, 1861. |
| " | XVI | Providing for the licensing and regulation of Stage-Carriages. | The Stage-Carriages Act, 1861. |
| 1862 | III | Amending the Law relating to the use of a Government Seal. | The Government Seal Act, 1862. |
| 1863 | XVI | Making special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry. | The Excise (Spirits) Act, 1863. |
| " | XX | Enabling the Government to divest itself of the management of Religious Endowments. | The Religious Endowments Act, 1863. |
| " | XXIII | Providing for the adjudication of claims to waste lands. | The Waste Lands (Claims) Act, 1863. |
| " | XXXI | Giving effect to the publication of certain orders and other matters in the Gazette of India. | The Official Gazettes Act, 1863. |
| 1864 | III | Giving the Government certain powers with respect to Foreigners. | The Foreigners Act, 1864. |
| [3]* | * | * * * * | * * |
| 1864 | XV | Amending Act VIII of 1851 (*for enabling Government to levy Tolls on public Roads and Bridges*). | The Indian Tolls Act, 1864. |
| [4]* | * | * * * * | * * |

[1] The entry relating to Act 13 of 1859 was repealed by the Workman's Breach of Contract (Repealing) Act, 1925 (3 of 1925).
[2] The entry relating to Act 47 of 1860 was repealed by s. 2 and Sch. of Act 12 of 1927.
[3] The entry relating to Act 6 of 1864 was repealed by *ibid.*
[4] The entry relating to Act 17 of 1864 was repealed by *ibid.*

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject. | Short Title. |
| [1]* | * | * * * * | * * |
| [2]* | * | * * * * | * * |
| 1866 | XXV | Providing for the transfer to the Government of India of certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay | The Unclaimed Deposits Act, 1866 |
| 1867 | XVI | Authorizing the making of certain acting appointments to certain Judicial Offices | The Acting Judges Act, 1867 |
| ,, | XXV | Providing for the regulation of Printing presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books | The Press and Registration of Books Act 1867 |
| [3]* | * | * * * * | * * |
| 1870 | V | Enabling the High Courts at the Presidency towns to deal with costs of petitions for certain moneys transferred to Government | The Unclaimed Deposits Act 1870 |
| ,, | VIII | Providing for the prevention of the murder of Female Infants | The Female Infanticide Prevention Act, 1870 |
| ,, | XX | Correcting two clerical errors in the Court fees Act 1870 | The Court fees Act (1870) Amendment Act, 1870 |
| ,, | XXVII | Amending the Indian Penal Code | The Indian Penal Code Amendment Act, 1870 |
| 1872 | III | [illegible] | The Special Marriage Act, 1872 |
| ,, | XIX | Amending the definition of ' Co n [in" the Indian Penal Code | The Indian Penal Code Amendment Act, 1872 |
| [4]* | * | * * * * | * * |
| [5]* | * | * * * * | * * |
| 1875 | XIII | Amending the Law relating to Probates and Letters of Administration | [6][The Court Fees (Amendment) Act, 1875] |

[1] The entry relating to Act 21 of 1865 was repealed by s 2 and Sch of Act 12 of 1927

[2] The entry relating to Act 5 of 1866 was repealed by the Transfer of Property Act, 1900 (.. of 1900)

[3] The entry relating to Act 1 of 1870 was repealed by s 2 and Sch of Act 12 of 1927

[4] The entry relating to Act 5 of 1875 was repealed by the Indian Army Act, 1911 (8 of 1911)

[5] The entry relating to Act 10 of 1875 was repealed by the Repealing and Amending 1914 (10 of 1914)

[6] These words were substituted for the words " The Probate and Administration Act ibid,

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short Title. |
| 1876 | XVI | Amending the Stage-Carriages Act . . | The Stage-Carriages Act (1861) Amendment Act, 1876. |
| [1]* | * | * * * * | * * |
| 1877 | IV | Regulating the procedure and increasing the jurisdiction of the Courts of Magistrates in the Presidency-towns. | The Presidency Magistrates (Court-fees) Act, 1877. |
| [2]*1879* | *XII* | *Amending the Registration Act, 1877, and the Limitation Act, 1877.* | *The Registration and Limitation Acts Amendment Act, 1879.* |
| 1882 | VIII | Amending the Indian Penal Code . . | The Indian Penal Code Amendment Act, 1882. |
| 1883 | II | Amending the Elephants' Preservation Act, 1879. | The Elephants' Preservation Act (1879) Amendment Act, 1883. |
| [3]* | * | * * * * | * * |
| 1885 | III | Amending the Transfer of Property Act, 1882. | The Transfer of Property Act (1882) Amendment Act, 1885. |
| ,, | IX | Amending the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878. | The Excise and Sea Customs Law Amendment Act, 1885. |
| [4]* | * | * * * * | * * |
| [5]* | * | * * * * | * * |
| 1886 | IV | Amending section 265 of the Indian Contract Act, 1872. | The Indian Contract Act (1872) Amendment Act, 1886. |
| ,, | X | Amending the Code of Criminal Procedure, 1882, and certain other Acts. | The Indian Criminal Law Amendment Act, 1886. |
| [6]* | * | * * * * | * * |
| 1887 | II | Amending the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882. | The Sea Customs Act (1878) Amendment Act, 1887. |
| ,, | III | Amending the Indian Evidence Act, 1872 . | The Indian Evidence Act (1872) Amendment Act, 1887. |

[1] The entry relating to Act 2 of 1877 was repealed by s. 2 and Sch. of Act 12 of 1927.
[2] Act 12 of 1879 has been repealed by Act 16 of 1908.
[3] The entry relating to Act 1 of 1884 was repealed by s. 2 and Sch., *ibid.*
[4] The entry relating to Act 15 of 1885 was repealed by s. 2 and Sch., *ibid.*
[5] The entry relating to Act 2 of 1886 was repealed by the Indian Income-tax Act, 1918 (7 of 1918).
[6] The entry relating to Act 18 of 1886 was repealed by s. 2 and Sch. of Act 12 of 1927.

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short Title. |
| [1]* | * | * * * * | * * |
| [2]* | * | * * * * | * * |
| [3]* | * | * * * * | * * |
| 1888 | II | Providing for the levy of a Customs duty on Petroleum. | The Petroleum (Customs duty) Act, 1888. |
| " | VIII | Removing doubts as to the legality of the levy of certain Tolls. | The Indian Tolls Act, 1888. |
| [4]* | * | * * * * | * * |
| 1888 | XI | Making an addition to the Indian Telegraph Act, 1885. | The Indian Telegraph (Presidency-towns) Act, 1888. |
| " | XVII | Amending the Indian Marine Act, 1887 . | The Indian Marine Act (1887) Amendment Act, 1888 |
| 1889 | VIII | Amending the Sea Customs Act, 1878, and the Indian Tariff Act, 1882. | The Sea Customs Act (1878) Amendment Act, 1889. |
| [5]* | * | * * * * | * * |
| [6]* | * | * * * * | * * |
| [7]* | * | * * * * | * * |
| 1890 | X | Amending Act XXV of 1867 . . . . | The Press and Registration of Books Act (1867) Amendment Act, 1890. |
| [8]* | * | * * * * | * * |
| 1890 | XVI | Amending the Births, Deaths and Marriages Registration Act, 1886. | The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890. |

[1] The entry relating to Act 5 of 1887 was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[2] The entry relating to Act 6 of 1887 was repealed by s. 2 and Sch. of Act 12 of 1927

[3] The entry relating to Act 1 of 1888 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

[4] The entry relating to Act 10 of 1888 was repealed by s. 2 and Sch. of Act 12 of 1927.

[5] The entry relating to Act 20 of 1889 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

[illegible]

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short Title. |
| 1* | * | * * * * | * * |
| 2* | * | * * * * | * * |
| 1891 | I | Amending the Cattle-trespass Act, 1871, and incorporating therein Act XVIII of 1883. | The Cattle-trespass Act (1871) Amendment Act, 1891. |
| " | II | Amending the Indian Christian Marriage Act, 1872. | The Indian Christian Marriage Act (1872) Amendment Act, 1891. |
| " | III | Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882. | The Indian Evidence Act (1872) Amendment Act, 1891. |
| 3* | * | * * * * | * |
| 4* | * | * * * * | * * |
| 1891 | VII | Amending Act X of 1841 . . . . | The Indian Registration of Ships Act (1841) Amendment Act, 1891. |
| " | IX | Amending the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878. | The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891. |
| " | X | Amending the Indian Penal Code and the Code of Criminal Procedure, 1882. | The Indian Criminal Law Amendment Act, 1891. |
| 5* | * | * * * * | * * |
| 1892 | II | Validating certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872. | The Marriages Validation Act, 1892. |
| 6* | * | * * * * | * * |

[1] The entry relating to Act 18 of 1890 was repealed by the Repealing and Amending Ac , 1914 (10 of 1914).

[2] The entry relating to Act 19 of 1890 was repealed by s. 2 and Sch. of Act 12 of 1927.

[3] The entries relating to Acts 4 and 5 of 1891 were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[4] The entry relating to Act 6 of 1891 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923).

[5] The entry relating to Act 13 of 1891 was repealed by the Inland Steam-Vessels Act, 1917 (1 of 1917).

[6] The entries relating to Acts 6 of 1892 and 5 of 1893 were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

THE SCHEDULE—*contd.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year | No | Subject | Short Title |
| [1]* | * | * * * * | * * |
| [2]1894 | III | Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code | The Indian Criminal Law Amendment Act, 1894 |
| [3]* | * | * * * * | * * |
| [4]* | * | * * * * | * * |
| [5]* | * | * * * * | * * |
| 1895 | III | Amending the Indian Penal Code, Act VI of 1864, and the Indian Post Office Act, 1866 | The Indian Criminal Law Amendment Act, 1895 |
| [6]* | * | * * * * | * * |
| 1895 | VII | Amending certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872 | The Punjab Laws Act Amendment Act, 1895 |
| " | VIII | Amending Act V of 1861 (*an Act for the Regulation of Police*) | The Police Act (1861) Amendment Act, 1895. |
| [7]* | * | * * * * | * * |
| [8]* | * | * * * * | * * |
| [9]* | * | * * * * | * * |
| 1896 | VI | Amending the Indian Penal Code . . | The Indian Penal Code, Amendment Act, 1896. |

[1] The entry relating to Act 2 of 1894 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

[2] So far as this Act relates to the Criminal Procedure Code, 1882 (Act 10 of 1882), it has been repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898)

[3] The entry relating to Act 6 of 1894 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

[4] The entry relating to Act 7 of 1894 was repealed by s 2 and Sch. of Act 12 of 1927

[5] The entry relating to Act 10 of 1894 was repealed by the Repealing and Amending Act, 1914 10 of 1914)

[6] The entry relating to Act 4 of 1895 was repealed by *ibid*

[7] The entries relating to Acts 13 of 1895 and 1 of 1896 were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[8] The entry relating to Act 3 of 1896 was repealed by s. 2 and Sch. of Act 12 of 1927.

[9] The entries relating to Acts 4 and 5 of 1896 were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

THE SCHEDULE—*concld.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Year. | No. | Subject. | Short title. |
| [1]* | * | * * * * | * * |
| 1896 | IX | Amending the Indian Railways Act, 1890 . | The Indian Railways Act (1890) Amendment Act, 1896. |
| " | XI | Amending the Legal Practitioners Act, 1879 . | The Legal Practitioners Act, 1896. |
| [2]* | * | * * * * | * * |
| [3]* | * | * * * * | * * |
| [4]* | * | * * * * | * * |
| 1897 | I | Amending Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*). | The Public Servants (Inquiries) Act (1850) Amendment Act, 1897. |
| [5]* | * | * * * * | * * |

[1] The entry relating to Act 7 of 1896 was repealed by s. 2 and Sch. of Act 12 of 1927.

[2] The entry relating to Act 13 of 1896 was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

[3] The entry relating to Act 15 of 1896 was repealed by the Glanders and Farcy Act, 1899 (13 of 1899).

[4] The entry relating to Act 16 of 1896 was repealed by the Indian Post Office Act, 1898 (6 of 1898).

[5] The entry relating to Act 13 of 1897 was repealed by the Repealing and Amending Act. 1914 (10 of 1914).

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